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Testimony taken before the Senate Commit



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# TESTIMONY

TAKEN BEFORE THE

## SENATE COMMITTEE ON BANKS

AND THE

SENATE OF THE STATE OF NEW YORK,

IN REFERENCE TO CHARGES PREFERRED BY

WILLIAM J. BEST,

RECEIVER, ETC.,

EDWARD MALLON AND JOHN MACK,

*AGAINST*

DE WITT C. ELLIS,

SUPERINTENDENT OF THE BANKING DEPARTMENT OF THE STATE OF NEW YORK.

ALSO

JOURNAL OF THE SENATE.

---

PRINTED UNDER THE DIRECTION OF THE CLERK OF THE SENATE, PURSUANT TO  
RESOLUTION OF THE SENATE, PASSED AT SARATOGA, AUGUST 17, 1877.

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VOL. I.

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1878.



STATE OF NEW YORK,                    }  
IN SENATE, *August 17, 1877.* }

On motion of Mr. HARRIS :

*Resolved*, That 500 copies of the Journal of the Senate and testimony taken before the Senate in the trial of the charges against De Witt C. Ellis, together with the testimony taken by the Senate Committee on Banks, be printed and bound, and that the Clerk cause an index thereof to be printed therewith ; the printing to be done under the supervision and direction of the Clerk of the Senate ; and that the same be distributed by him to the senators, officers, Mr. Ellis and the counsel engaged in the case.

By order.

HENRY A. GLIDDEN, *Clerk.*



# TESTIMONY

TAKEN BEFORE THE COMMITTEE ON BANKS OF THE SENATE OF THE STATE OF NEW YORK, IN REFERENCES TO CHARGES PREFERRED BY WILLIAM J. BEST, RECEIVER OF THE MECHANICS AND TRADERS' SAVINGS INSTITUTION, AGAINST DE WITT C. ELLIS, SUPERINTENDENT OF THE BANK DEPARTMENT OF THE STATE OF NEW YORK.

NEW YORK, *April 23, 1877.*

Pursuant to the following resolution adopted by the senate April 19, 1877, the committee met at the St. Nicholas Hotel:

On motion of Mr. ROBERTSON,

*Resolved*, That the committee on the judiciary be discharged from the further consideration of the message of the Governor, recommending the removal of De Witt C. Ellis as superintendent of the bank department, and the accompanying charges, and that same be referred to the committee on banks for the purpose of investigating the truth of said charges, with power to send for persons and papers, to employ a stenographer, and also a messenger, if they deem it expedient to do so, and that they report to the senate the testimony taken thereon.

Present—Senators COLEMAN (chairman), WELLMAN, and ST. JOHN.

EDWARD F. UNDERHILL is employed as stenographer, to take notes of the proceedings of the committee.

For the Receiver of the Mechanics and Traders' Savings Institution, appears as counsel, JOHN MCKEON, Esquire.

For the Superintendent of the Bank Department, appears as counsel, ORLOW W. CHAPMAN, Esquire.

*William J. Best*, a witness, is duly sworn:

Counsel for the receiver offers in evidence a message from his excellency, the governor, addressed to the senate in the words following:

STATE OF NEW YORK,  
EXECUTIVE CHAMBER,  
ALBANY, *April 5, 1877.* }

*To the Senate:*

I have received from Mr. William J. Best, who was appointed by the supreme court, in July, 1876, receiver of the Mechanics and

Traders' Savings Institution, charges against De Witt C. Ellis, superintendent of the bank department, accompanied by depositions and documentary proof in support thereof.

The charges are that the bank was insolvent in July, 1874, the deficiency being then about two hundred thousand dollars; that this condition of the bank was exposed to Mr. Ellis in September, 1874, by two of its trustees; that Mr. Ellis then personally investigated the affairs of the bank; that upon such examination he admitted the bank was insolvent; that he was frequently requested by and on behalf of the two trustees to take immediate proceedings to protect the creditors, and that he neglected to do so until June, 1876, a period of nearly two years.

In support of the charges are submitted:

1. A balance sheet (Schedule A) made out by George N. Pratt, who was at the time general book-keeper of the bank, and verified by his oath, showing a deficiency in July, 1874, of \$201,017.52.

2. The testimony of William Floyd and Ira W. Gregory, two of the trustees of the bank, contained in their depositions, that they, as a special committee appointed in July, 1874, to examine its condition, reported a deficiency of assets as compared with liabilities of \$181,505.71, and a deficiency in annual income, if the usual dividend of interest to depositors were declared, of \$15,041.70. Schedules B and C showing this condition of things, now appended to the charges, formed a part of their report. Mr. Floyd deposes, further, that the trustees having, notwithstanding their report, declared the usual dividend, he, through F. P. Bellamy, his attorney, in September, 1874, laid copies of the report of himself and Mr. Gregory, accompanied by the schedules above mentioned, before Mr. Ellis, and requested him to institute proceedings to protect the creditors; that thereupon Mr. Ellis went to New York, and in person examined the condition of the bank; that after such examination Mr. Ellis admitted to Floyd that the report of himself and Gregory was substantially correct, and that the bank was insolvent, and promised to take immediate measures to protect the depositors; that he (Floyd) frequently between that time and June, 1876, urged Mr. Ellis to take some action in the matter, but that until the last-named date he neglected to do so.

3. The testimony of F. P. Bellamy, attorney at law, of Brooklyn, contained in his deposition, to the same facts and to the same admissions to him by Mr. Ellis, after his personal examination of the condition of the bank, that it was insolvent, and that he, Bellamy, had on behalf of the two trustees above named, frequently urged Mr. Ellis, thereafter, to take action to protect the creditors, and had mailed

several letters to Mr. Ellis to that effect between the time of the examination aforesaid and June, 1876, but that Mr. Ellis neglected to take any proceedings until the last date.

4. The deposition of Mr. Gregory, to the effect that he confirms all that Mr. Floyd has stated concerning the acts and doings of Mr. Floyd and himself, and of Mr. Ellis.

The annual report of the bank department, dated March 5, 1875, exhibits this bank as possessing a surplus of assets over liabilities of \$67,240.18. Assembly documents No. 108, p. 148. That of 1876, exhibits the bank with a surplus of \$9,530.13. See Assembly Documents of 1876, No. 97, p. 157.

Mr. Best alleges that at the time he was appointed receiver, in July, 1876, the deficiency had reached nearly \$350,000.

Upon these charges, and the proofs in support of them, which I transmit to you herewith, it becomes my duty to recommend to you, as I now do, the removal from office of DeWitt C. Ellis, superintendent of the bank department.

This recommendation is made as a basis of action on the part of the senate, and upon the assumption that the deposition annexed to the charges are true, and make out a *prima facie* case. It is due to Mr. Ellis to say, that upon my invitation he has appeared before me and made explanations which seem to acquit him of any intentional wrong, but not, in my judgment, of culpable negligence. I submit the whole matter to the senate for such investigation and action as it may think proper for the protection of public interests.

L. ROBINSON.

Counsel for the receiver also offers in evidence the schedule attached to the preceding communication, in the words following :

#### SCHEDULE A.

STATEMENT OF MECHANICS AND TRADERS' SAVINGS INSTITUTION,  
JULY 1, 1874.

##### *Liabilities.*

Amount due depositors as shown on general ledgers..	\$2,565,252 83
Amount due depositors, dealers' ledgers, in excess of	
above, estimated.....	70,000 00
	<hr/>
	\$2,635,252 83
	<hr/>

No balance seems to have ever been taken off the dealers' or depositors' ledgers. When balanced by the receiver, the dealers' ledgers showed that the institution owed its depositors more than \$80,000 in



excess of the sum appearing in the general ledger; hence the addition made above, which is only approximately correct.

<i>Assets.</i>		
	Par value.	Market value.
Bonds and mortgages.....	\$748,150	\$748,150 00
Stocks and bonds.....	1,852,600	1,436,357 00
Cash in safe and banks.....		102,009 12
Interest due but not collected.....		47,516 78
Banking-house, cost.....		65,725 00
No. 30 Pres't st., Brooklyn (est'd).....		15,000 00
No. 32 Pres't st., Brooklyn (est'd).....		7,000 00
E. Goulard, judgment....		5,004 48
Suspense accounts, nominal value \$41,000, subsequently realized.....		1,872 93
Office furniture, safe, etc.....		5,000 00
		<hr/>
		\$2,433,635 51
Deficiency .....		201,617 52
		<hr/>
		<u>\$2,635,252 83</u>

CITY AND COUNTY OF NEW YORK, ss.:

*Geo. N. Pratt*, of the city and county of New York, being sworn, says:

That in July, 1874, and for sometime previous and thereafter, he was general book-keeper of the Mechanics and Traders' Savings Institution of said city.

That he has examined the schedule hereto annexed, marked "A," and that it includes all the assets of said institution at the time named.

GEO. N. PRATT.

Sworn to before me, this 13th }  
day of October, 1876. }

CHAS. L. ADRIAN,

*Notary Public, New York city.*

MECHANICS AND TRADERS' SAVINGS INSTITUTION, }  
283 BOWERY, NEW YORK, *October 13, 1876.* }

SIR — I have the honor to submit herewith, for your consideration, certain documents, which appear to me of the greatest public importance.

In 1874, Messrs. Floyd and Gregory, two of the trustees of this institution, were appointed a special examining committee by the

board of trustees. In the course of my investigations, the report of this committee came under my notice.

The details and figures furnished by this report are not critically correct, some items having been omitted, but the amount of the deficiency is very nearly exact. This appears by schedule A, hereto annexed.

As the result of my investigations, I would state :

1. That the books of the institution furnished undoubted evidence that it was hopelessly insolvent in the summer of 1874, and for a considerable time previous.

2. That the special examining committee, referred to herein, reported the insolvency of the institution to the board of trustees at one of its regular meetings.

3. That no action was taken by the board of trustees to make good the deficiency or otherwise protect the interests of the depositors.

4. That soon afterward, as appears by the inclosed affidavits, the condition of the institution was laid before Hon. DeWitt C. Ellis, then and now superintendent of the banking department.

5. That at the request of the counsel of Messrs. Floyd and Gregory, the committee heretofore named, Superintendent Ellis came here and made a personal examination of the affairs of the institution, and, after such examination, freely admitted its insolvency, and promised to take such action in the premises as would protect interests of the depositors.

6. That no such action was taken by Superintendent Ellis, until about the beginning of June, 1876.

7. The total amount of the deficiency, at the date of my appointment as receiver, was nearly \$350,000, of which possibly half would have been saved to the depositors had Superintendent Ellis fulfilled his legal duty in 1874.

The failure of this and many similar institutions has entailed vast losses upon the working classes, and excited in their minds grave doubts as to the solvency of other savings banks generally. For these reasons, and in the clear discharge of my duty, I have thought it proper to bring to the notice of your excellency the facts herein recited, with the proofs in substantiation of them, for such action as you may see fit to adopt.

I have the honor to remain,

Respectfully, your obedient servant,

WILLIAM J. BEST,

*Receiver.*

To His Excellency SAMUEL J. TILDEN,

*Governor of the State of New York.*

Counsel for the receiver offers in evidence the affidavits accompanying the communication to Gov. Tilden, and the schedules thereunto attached, in words and figures following:

CITY AND COUNTY OF NEW YORK, ss.:

*William Floyd*, of the city of Brooklyn, county of Kings, being sworn, says:

That in or about the month of July, 1874, and for a considerable time before and after, he was a trustee of the Mechanics and Traders' Savings Institution of the city of New York.

That on the 13th day of July, 1874, deponent and one Ira W. Gregory, who was then also a trustee of said institution, were duly appointed by the board of trustees a special committee to examine and report upon the condition of the said Mechanics and Traders' Savings Institution.

That in pursuance of such appointment deponent and said Gregory entered upon the discharge of their duties as such special examining committee, and schedules A, B and C, hereto annexed, are true copies of the report and accompanying schedules submitted to the board of trustees of said institution by deponent and said Gregory as such committee.

That at or about the time when such report was made and submitted, said board of trustees, notwithstanding the insolvency of said institution, which was alleged and set forth in the aforesaid report of deponent and said Gregory, resolved at a regular meeting to pay a dividend to the depositors for the six months ending July 1, 1874, although no dividend had been earned, and this deponent and said Gregory voted and protested against making or paying said dividends.

That in September, 1874, deponent, by his attorney, F. P. Bellamy, Esq., laid copies of said special report and accompanying schedules before the Hon. DeWitt C. Ellis, superintendent of the banking department, and requested him to institute proceedings to secure the depositors and other creditors of said institution against further loss.

That, thereupon, said Ellis came to New York, and examined said institution, and informed deponent that the report of deponent and said Gregory, as to the condition of said institution, was substantially correct, and that said institution was then clearly insolvent, and then and there promised deponent that immediate steps should be taken to protect its depositors.

Deponent further says that notwithstanding the aforesaid statement and promise of said Ellis to deponent, and notwithstanding the fact that deponent has frequently for nearly two years previous to June 1, 1876, by his attorney, F. P. Bellamy, requested said Ellis to take some

action in the premises, said Ellis utterly failed and neglected to take any substantial steps to protect the depositors of said institution until on or about June 1, 1876, when proceedings were finally instituted for the appointment of a receiver for said institution.

WM. FLOYD.

Sworn to before me, this 12th }  
day of October, 1876. }

E. A. CARLEY, *Notary Public, N. Y. Co.*

CITY AND COUNTY OF NEW YORK, ss.:

*Ira W. Gregory*, of the city of Brooklyn, county of Kings, being sworn, says:

That he had heard the annexed affidavit of William Floyd read, and knows the contents thereof, and that the statements therein contained in respect to the acts and doings of said Floyd, and this deponent and of DeWitt C. Ellis, superintendent of the banking department, are true, as stated in said affidavit.

I. W. GREGORY.

Sworn to before me, this 12th }  
day of October, 1876. }

E. A. CARLEY, *Notary Public, N. Y. Co.*

CITY OF BROOKLYN, COUNTY OF KINGS, ss.:

*F. P. Bellamy*, of the city of Brooklyn and county of Kings, being sworn, says:

That he is an attorney at law; that in or about the month of September, 1874, at the request of William Floyd and Ira W. Gregory, two of the trustees of the Mechanics and Traders' Savings Institution of the city of New York, deponent went to the city of Albany, and there laid before Hon. DeWitt C. Ellis, superintendent of the banking department, reports and statements, sworn to by said Floyd and Gregory, purporting to show the insolvency of the said institution to the extent of \$100,000, or thereabouts; and requested said Ellis to take immediate steps to close said institution, or otherwise protect the depositors against further loss.

That said Ellis returned to New York with deponent, for the alleged purpose of making a full and thorough examination of said institution and its affairs.

That after having made such examination, said Ellis admitted to deponent and others that said institution was insolvent, and that he, the said Ellis, would immediately institute such measures as were necessary to protect the interests of the depositors in said institution.

That deponent subsequently wrote and mailed several letters to said Ellis, urging him to immediate action in the premises; but said Ellis, as deponent is informed and believes, failed and neglected to do and perform this duty, and has not even replied to the communications of deponent.

F. P. BELLAMY.

Sworn before me, this 13th }  
day of October, 1876. }

A. L. PECK, *Notary Public, Kings County.*

### (SCHEDULE A.)

The committee, appointed to examine the financial condition of the institution, and also to ascertain the whole of the receipts and also the expenses for the six months commencing January 1 to July 1, 1874, would respectfully

### REPORT

That they have very carefully examined and considered the same.

Your committee would here state that they most exceedingly regret to find the finances of the institution to be in the condition they are in.

They find the whole assets of the institution to be \$2,383,672.46, and the liabilities \$2,638,752.83,\* showing that the liabilities exceed the assets \$181,505.71. See schedule A attached to this report.

Your committee find that the whole receipts of the institution from January the 1st to July the 1st, 1874, to be \$75,739.07, and the expenses during the same time to be \$90,780.77, showing that the expenses exceed the receipts by \$15,041.70. See schedule B attached.

Your committee would, in view of the above facts, state that they may not be correct as to the very dollar and the cent, yet they feel very certain that they cannot be but very little out of the way.

Your committee would therefore respectfully urge upon the board, if it be advisable for the institution to continue business any longer at all, that a proper regard to economy renders it imperative that immediate steps should be taken to save every dollar that honor and justice could dictate to be done.

Your committee not wishing to be considered small by the board in the suggestions they may make, yet justice to the depositors and honor to themselves demands that they should speak plain.

Your committee cannot refrain from saying that the secretary's report every month, of the petty cash paid out for suppers for the board and committees, and for segars, etc., is all wrong; and they deem it equally important that not a dollar should be paid from the funds of the institution but what is legally right.

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\* Less liabilities, interest credited to depositors, \$73,574.66, error made on schedule A.

Your committee deem it to be highly necessary that the secretary should be more particular in itemizing his entries of expenses on his cash book, so that every member could see at once what they are, without having to inquire for explanation; your committee have found some little trouble in this respect.

Your committee would also urge that the secretary read his minutes of each session of the board prior to its adjournment, so that, if any errors, they could be corrected while fresh before the board; and they deem it proper also that the minutes should be written up on his book in a day or *two*, at least, after the session, so that if any one member be absent he can examine the same.

Your committee, in relation to salaries, in view of the above facts, do most strenuously urge the adoption of the following preamble and resolution:

WHEREAS, If it be advisable for the institution to continue its business, a large reduction of salaries should be made, therefore,

*Resolved*, That from the first day of August, 1874, the president's salary ; the salary of secretary, \$2,000; Mr. Pratt, \$1,600; Mr. Bennett, \$1,500; examining committee, \$600 to each.

J. W. GREGORY,

WM. FLOYD,

*Committee.*

## SCHEDULE B.

SECURITIES.	Par value.	Rate of interest.	Cost.	Market value.	Time.	Interest.
Bonds and mortgages .....	\$748,150 00	Per ct. 7	\$748,150 00	\$748,150 00	6 mos.	\$26,185 25
City Revenue bonds .....	275,000 00	7	275,000 00	275,000 00	6 mos.	9,625 00
City Revenue bonds .....	100,000 00	6	100,000 00	100,000 00	3 mos. 6 days...	1,600 00
Brooklyn Park bonds .....	240,000 00	7	241,575 00	240,000 00	6 mos.	8,400 00
Oswego City bonds .....	197,000 00	7	187,150 00	197,000 00	6 mos.	6,895 00
Buffalo City bonds .....	70,000 00	7	69,300 00	70,000 00	6 mos.	2,450 00
Buffalo City bonds .....	60,000 00	7	59,400 00	60,000 00	4½ mos.	1,575 00
Rochester City Water bonds .....	100,000 00	7	99,000 00	100,000 00	4½ mos.	2,625 00
Rochester City Water bonds .....	150,000 00	7	148,500 00	150,000 00	3 mos. 23 days.	3,295 80
Rochester City Water bonds .....	6,000 00	7	6,000 00	6,000 00	6 mos.	210 00
Westchester bonds .....	10,000 00	7	10,000 00	10,000 00	6 mos.	350 00
Yonkers bonds .....	21,000 00	7	20,580 00	21,000 00	6 mos.	735 00
Wallabout Improvement bonds .....	17,000 00	7	17,000 00	17,000 00	6 mos.	595 00
Morrisania bonds .....	3,000 00	7	3,000 00	3,000 00	4½ mos.	78 75
Tennessee bonds .....	168,000 00	6	104,771 25	100,800 00	.....	5,040 00
South Carolina bonds .....	155,000 00	6	90,050 00	28,675 00	.....	.....
North Carolina bonds .....	114,600 00	6	74,550 00	20,628 00	.....	.....
Alabama bonds .....	166,000 00	8	157,700 00	66,400 00	.....	.....
	\$2,600,750 00			\$2,213,653 00		



Bank interest on deposit.....	.....	.....	.....	\$3,886 14
Interest received \$350,000, City Revenue bonds.....	.....	.....	15 days.	1,020 83
Interest received \$100,000, City Revenue bonds.....	.....	.....	1 month.	583 33
Interest received \$4,000, Yonkers bonds.....	.....	.....	1 month.	23 33
Interest received \$5,000, E. Goulard bonds.....	.....	.....	18 days.	17 26
Banking house .....	\$65,725 00	\$65,725 00	.....	\$75,190 69
President, Van Brunt street house, rent 6 months.....	21,510 92	21,510 92	.....	133 33
President St., No. 32, rent 6 months.....	7,044 47	7,044 47	.....	408 00
Stable, Van Brunt street, rent 6 months .....	.....	.....	.....	100 00
		<u>\$2,307,933 39</u>		<u>\$75,832 02</u>
Deduct interest on \$3,800, 3.23 days, less 6 mos. ; one-eighth com. collection, Rochester city .....				
				92 95
				<u>\$75,739 07</u>

### RECAPITULATION.

<i>Liabilities:</i>	
Amount due depositors as per semi-annual statement principal.....	\$2,565,178 17
<i>Assets:</i>	
Market value assets, June 30, 1874.....	\$2,307,933 39
Interest from all sources.....	75,739 17
	<u>2,583,672 46</u>
Deficiency.....	<u>\$181,505 71</u>

## SCHEDULE C.

STATEMENT OF EXPENSES FOR SIX MONTHS ENDING 30TH OF  
JUNE, 1874.

Salaries for six months .....	\$9,850 00
Gas bill .....	29 15
Advertising .....	93 50
Petty cash book .....	75 86
Referee foreclosure, President st .....	1,288 65
Joel W. Mason .....	24 00
Examining committee, property .....	47 00
Special examining committee, incidental .....	103 59
Gas bill .....	37 95
Petty cash .....	86 93
Insurance, \$5,000, bank building .....	25 00
Insurance, 32 President st .....	8 75
Examiners, bank department .....	79 11
Gas bill .....	29 97
Petty cash .....	56 17
G. T. Clark, Virginia suit .....	104 50
Insurance, President st .....	18 75
Bank examiners .....	150 00
Gas bill .....	24 47
W. W. Sharp, annual advertising .....	226 90
Advertising, German papers .....	52 80
Advertising, German annual .....	131 20
Petty cash .....	44 12
Davies & Vanderpoel, law suits .....	1,750 00
Gas Co.'s bill .....	21 45
Roberts, stationery .....	71 15
W. W. Sharp, advertising .....	93 25
Campbell Bros., repairing .....	17 85
Petty cash .....	41 02
Insurance, President st .....	11 25
Gas bill .....	18 70
Petty cash .....	72 84
U. S. Revenue tax to June 1st .....	1,381 31
Jas. Ross, coal, 154 .....	77 00
Plumbing bill, 32 President st .....	12 08
Plumbing, mantel bill .....	29 99
Plumbing, mantel bill .....	4 50
Interest on investment, President st., \$21,510.92 .....	752 88
Interest on investment, 32 President st., \$7,044.47 .....	222 26
Taxes, President and Van Brunt sts., 1873, \$501.84 .....	250 92

Taxes, 32 President st., \$186.46.....	\$93 23
Cash, A. T. Couplin, Virginia.....	504 00
Water tax, President and Van Brunt sts.....	18 00
Water tax, 32 President st., and stable.....	27 75
Tax, bank building, 1873, \$765.....	382 50
Gas bill, President st.....	14 70
Plumbing, 32 President st.....	2 05
Plumbing, 32 President st.....	5 15
Carpentering.....	3 50
Agent McDonough, commission.....	27 06
	<hr/>
	\$17,206 11
Interest due depositors.....	73,574 66
	<hr/>
	\$90,780 77
	<hr/>

*Recapitulation.*

Amount of interest received and accrued, viz. :

Bonds and mortgages.....	\$26,185 25
Stocks and bonds.....	43,474 55
Oriental and other banks.....	3,886 14
City revenue bonds.....	1,604 16
Yonkers bonds.....	23 33
Goulard bond and mortgage.....	17 26
Rents Brooklyn property.....	641 33
	<hr/>
	\$75,832 02
Deduct interest on \$3,800.....\$3.23	
Deduct one-eighth commission, Rochester.....	92 05
	<hr/>
	\$75,739 07
	<hr/>

Amount of interest credited to depositors on \$2,565,078.17,	\$73,574 66
Salaries.....	9,850 00
Taxes and revenue tax.....	2,107 96
Advertising.....	599 65
Coal and gas bills.....	253 39
Bank department.....	229 11
Insurance.....	63 75
A. T. Conklin & Clark, Virginia.....	608 50
Special exchange, commissions and property.....	150 59
Repairs President street and gas.....	103 02
Agent McDonough.....	27 06

Petty cash and expenses . . . . .	\$376 94
Davies & Vanderpool.....	1,750 00
Other expenses . . . . .	1,088 14
	<hr/>
	\$90,780 77
	<hr/>
	75,739 07
	<hr/>
	\$15,041 70
	<hr/>

The examination of the witness is proceeded with, as follows :

By the CHAIRMAN :

Q. Where do you reside ?

A. In New York city.

Q. What business are you engaged in ?

A. At present I am the receiver of the Mechanics and Traders' Savings Institution.

Q. Have you been connected with savings banks ?

A. No, sir.

Q. Never before ?

A. Never.

By Mr. McKEON :

Q. When were you appointed receiver ?

A. I was appointed July 12, I believe it was, 1876.

Q. Had you before that been in any way connected with the investigation of banks ?

A. Yes, sir.

Q. In what way ?

A. As a stockholder of a national bank.

Q. Had you assisted any receiver in winding them up ?

A. I wound it up myself.

Q. That was one of the national banks ?

A. Yes, sir.

Q. When you went into the office of receiver, what did you do in relation to the examination of the affairs of the bank, as far as Mr. Ellis is concerned ?

A. I made no examination of the bank as far as Mr. Ellis was concerned ; I made it my business to investigate the whole management of the institution from its organization down to the day of its suspension ; in the course of my investigation, among the mass of other papers thrown away into the corner, I found the reports of special examining committees, dated back as far as 1872.

By the CHAIRMAN :

Q. When was this ?

A. In 1876.

Q. Made after you were appointed receiver ?

A. I began my examination immediately after that, and among those reports was that of Messrs. Gregory and Floyd, the original of which I have here.

By Mr. McKEON :

Q. Mr. Gregory, whose affidavit is appended to the communication to the governor ?

A. Yes, sir ; that is the original report.

Q. And these are the schedules which accompanied it ?

A. Yes, sir.

By Senator ST. JOHN :

Q. When was the first examination made ?

A. That examination was made in August, 1874 ; I believe the report was made on the 8th of August [after examining] ; the report was made on the 10th of August, stating the condition of the bank on the 30th of June, 1874.

By Mr. CHAPMAN :

Q. That is a report to the bank by two of its trustees, and not to Mr. Ellis ?

A. No, sir ; not to Mr. Ellis.

By Mr. McKEON :

Q. What did you do instead ?

A. I asked for Mr. Floyd and Mr. Gregory.

Q. What was their character in connection with the bank ?

A. They had been trustees.

By Senator WELLMAN :

Q. They were chosen as the regular examining committee ?

A. They were chosen regularly by two.

By Mr. McKEON :

Q. You sent for Floyd and Gregory ?

A. Yes, sir ; they told me they had brought this report.

[Objected to on the ground that the parties referred to should be brought to prove the facts in connection with the report.]

Counsel for the receiver offers the report of Messrs. Gregory and Floyd, and the schedules annexed thereunto, in evidence.

[Objected to on the ground that the paper had not been served upon the examination. Objection sustained.]

*Ira W. Gregory*, a witness, being duly sworn, testifies :

By the CHAIRMAN :

Q. What is your business ?

A. I am in the insurance business — plate glass insurance.

Q. Where do you reside ?

A. In Brooklyn.

Q. Where is your business located ?

A. At 113 Broadway.

By Mr. McKEON :

Q. Were you at any time connected with the Mechanics and Traders' Savings Bank ?

A. I was.

Q. What was your connection with that institution in the month of July, 1874 ?

A. I was president of the institution at that time, and one of the special examining committee about that time.

Q. Who was on the committee with you ?

A. Mr. Floyd, and, I think, Judge Tappan, was appointed or elected, to the best of my recollection ; I have the papers here ; Mr. Floyd —

Q. What is Mr. Floyd's first name ?

A. William, I think.

Q. Do you recollect the date of your appointment ?

A. I do not ; no.

Q. Will you state what you and Mr. Floyd did ?

A. We endeavored to ascertain the assets and the liabilities of the institution.

Q. You examined into the condition of the bank ?

A. Yes, sir.

Q. Go on and tell us what you found ?

A. We made a written report to the bank ; I cannot tell you the exact figures, as far as that was concerned.

Q. Look at that paper [producing a paper to the witness].

A. That is the report to the bank made by Mr. Floyd and myself. The paper is marked for identification A, April 23, 1878.

Q. You made a report to the bank ?

A. Yes, sir.

Q. Do you recollect whether there were schedules annexed to it — look at those [producing two papers to the witness].

A. I think there were [after examining the papers], yes, sir.

Q. Those are what?

A. Those are the schedules, I believe.

[The papers are marked respectively for identification B 1, and B 2, April 23, 1877.]

By Mr. CHAPMAN:

Q. Did Mr. Ellis ever, to your knowledge, see those papers?

A. Not to my knowledge; no, sir.

Counsel for the bank superintendent produces a paper which he states is the only one received by the bank superintendent in reference to the Mechanics and Traders' Savings Bank, prior to the examination he made in reference to the condition of the bank.

By Mr. McKEON:

Q. What was the condition of the bank at the time of your examination?

A. It was insolvent.

Q. What did you do after that?

A. We made this report to the bank, in the first place; they took no notice of it, and then we concluded we would go to a higher authority.

Q. Whom do you speak of?

A. Mr. Bellamy, Floyd, and myself.

Q. The bank not taking any notice, you and Mr. Floyd agreed that you would apply to a superior power?

A. Yes, sir.

Q. What was that?

A. The superintendent of the banking department, Mr. Ellis.

Q. How did you communicate with him?

A. Through Mr. Bellamy.

Q. Who is Mr. Bellamy?

A. He is a lawyer in Brooklyn, Mr. Floyd's lawyer.

Q. Do you know whether Mr. Ellis received any information in regard to the insolvency of the bank?

A. He said he did.

Q. To whom did he say it?

A. He said it to me.

Q. Do you recollect of Mr. Ellis coming to your office in the fall of 1874?

A. I do.

Q. State what occurred and what time it was; look at that memo-



random; I don't know whether it is in your handwriting or not, [producing a paper to the witness].

A. That is my handwriting.

Q. Look over it and see if you can recollect?

A. It says, according to this memorandum, the 2d of October, 1874, about 12 o'clock, noon.

Q. He came in and said what?

A. I cannot say exactly all he said in answer, but at any rate the matter was brought up in regard to our complaint of the statement of the bank which Mr. Ellis said he had seen, and he said it was substantially correct, our report.

By Senator ST. JOHN:

Q. Your report?

A. Yes, sir.

By Mr. McKENON:

Q. What did he say about the condition of the bank; look at your own memorandum which you have got there?

A. He said he came down for the purpose of going to examine it at that time.

By Senator WELLMAN:

Q. This call at your office was after Mr. Ellis' examination?

A. No, sir; that examination took place—I think he came right from Albany down to the office in the first place before he went to the bank—to my office, No. 73 Cedar street.

Q. I understood you to say that he stated then that your statement was substantially correct?

A. As I understood Mr. Bellamy to say that he had been to Mr. Ellis—went up there the 28th of September, and had seen him and had shown him the report, and that Mr. Ellis then said it was substantially correct.

Q. As compared with what?

A. That our statement was substantially correct.

Q. As compared with what; I cannot understand, if he had not examined the bank, how he should say it was substantially correct?

A. I suppose he had looked over the items; I suppose he had looked over the stocks, and I suppose that was the way he got at it.

[Counsel for the superintendent objects to the answer of the witness which are matters of supposition.]

By Mr. McKEON:

Q. Read the whole of that paragraph there, and then you will have had your recollection refreshed?

A. He said our report was substantially correct; that the bank was in a bad condition, and that he had come for the purpose of examining it particularly.

Q. Look at that memorandum of October 7th; read it first, and then I will ask you the question?

A. I suppose I can tell pretty near; there was not much of it.

By Mr. CHAPMAN:

Q. You can tell the contents of the paper without refreshing your memory?

A. Mr. Ellis called at the office; in the meantime, in the time that he was examining, we had a talk in regard to this bank at that time, in the office; I think that Mr. Ellis was in the office twice or three times, twice at any rate, and I do not know but three times; we expected to hear what results he had arrived at from an examination of the bank; he did not come, and I said to Mr. Floyd, or Mr. Floyd to me, or both together, that I would like to see Mr. Ellis before he went to Albany, and would like to know what the results of the second examination were; we heard that he was about through, and heard that he was at the Metropolitan Hotel, and we went up there and saw Mr. Ellis in the afternoon; I think about six or seven o'clock in the afternoon.

Q. Give me the date; look at that [producing the same paper to the witness]?

A. That is October 7th; it says here that I asked Mr. Ellis if he had examined the bank, and he said he had, that he had got through, and I asked what about the result, and he said there was a deficiency of about \$25,000—that is my best recollection—and some might think it was more; I asked him how he made that out, how it was possible that there should be such a discrepancy between him and me, and then I called upon him to name some of the securities that he had taken down, and mentioned North Carolina bonds; I asked him how he put North Carolina bonds down, and he said 30, and I asked him in regard to the real estate in Brooklyn, what that was put down for, and he told me—I don't know as I can tell the exact amount; he had taken North Carolina bonds, to the best of my recollection now, at 30.

By Senator ST. JOHN:

Q. What amount was there of them?

A. About \$114,000 of them; I could not imagine how he could put

down North Carolina bonds at 30 ; I told him I thought I could sell him all he wanted of them — I will not be positive unless I look at the memorandum that I may have in my possession — at  $16\frac{1}{2}$ , or less than 20 ; he said he had averaged them ; I could not understand how he could average the funds ; he said there was some of one kind and some of another, and some were worth more than others ; that an average had been taken ; I told him that I knew there were different kinds of them ; different —

Q. There were different issues of the bonds ?

A. Nothing further than that we — \$4,000, worth about — I cannot tell unless I refer to my memoranda — worth, I suppose, about 30 to \$2,000 ; I guess about 56, and the balance of them were worth on about  $16\frac{1}{2}$  to 20 ; I forget which ; I had it then ; I cannot recollect the exact amount.

By Mr. CHAPMAN.

Q. \$2,000 at 56 ?

A. I do not say that, unless I refresh my memory in regard to it ; but we had three different kinds, I think, which were bringing in the market different prices ; we had, I think, \$4,000 or else \$6,000 worth 30 or 36, and \$2,000 worth 50 to 56 ; I cannot say positively.

By Mr. McKEON.

Q. That was a small amount compared with the larger portion that you had ?

A. I think at the time I said to him that his average would not be very great.

By Senator ST. JOHN :

Q. In other words, you mean their value was over estimated ?

A. Yes, overestimated.

By Mr. McKEON :

Q. Did he say any thing of what he thought was the condition of the bank ?

A. Yes, that is, he did not tell me fully just the amount, but about \$25,000, and some might say \$50,000.

Q. Deficiency ?

A. Deficiency.

Q. Did he say what he was going to do about it ?

A. I do not think he did ; I do not think the matter was mentioned further than that.

Q. Was any suggestion made to you about closing of the bank at that time, or having it secured in any way ?

A. Not at that time; no, I think not; we had talked the matter over previously.

Q. With him?

A. Yes, sir.

Q. What did he say about that?

A. I do not think, to my recollection, that he ever said he was going to close up the bank — that is, to my recollection; we talked about the state of the bank; I told him that the bank was in a very bad state, in my opinion; that I had examined it once or twice before; also, that after I read the report that had been made up in March or April, which report called for about \$70,000 of surplus, in that neighborhood; I said that it ought to be examined closely, that it was common talk; there was nothing more than general talk, that I recollect positive, beside.

Q. Did you call his attention to the necessity of a close examination of it?

A. I think I did.

Q. Was there any thing done at that time?

A. Not to my recollection; it was in the hands of Mr. Bellamy, particularly, to look after that matter.

Q. Do you know whether Mr. Bellamy took any steps?

A. I have reason to believe he did; I do not know of my own knowledge.

[Counsel for the superintendent suggests that these facts had better be proven by Mr. Bellamy himself, which will avoid the necessity of introducing hearsay evidence.]

Q. Had you any conversation with Mr. Ellis after that?

A. No, sir, not to my recollection; I think the last I saw of Mr. Ellis was at the Metropolitan hotel.

Q. Have you any recollection of the other securities, beside the North Carolinas?

A. Yes, sir.

Q. What were they?

A. Those in the bank you have reference to?

Q. Yes?

A. We had Alabamas in the bank.

Q. How much of them?

A. We had — I do not know as I can tell exactly; we had a considerable amount; and we had South Carolinas; I think at that time the prices of Alabamas were mentioned; in regard to that I asked him what he put them down at, and, if my recollection is right, he put them down at 50 or 60.

Q. What were they selling for?

A. They were not selling for that just at that present time; they were from the best information I could get anywhere — and I took some considerable pains to get information not quoted — not higher than 35; I think that was one point I stated at that time.

Q. Do you recollect what kind of bonds he had; whether he had any; whether he had not got two kinds, one recognized by the State, and another not recognized by the State?

A. I do not know as he had two kinds of Alabamas; I think there were but one kind.

Q. Had you of any of the other States two kinds?

A. Of North Carolina we had three kinds; to the best of my recollection, of the Alabamas there was one kind that we had.

Q. How about the South Carolinas?

A. The South Carolinas — I should have to look at my memoranda, but I think there were two or three kinds of South Carolinas; they were issues of different kinds.

Q. Do you know what price he put them at?

A. I have forgotten exactly.

Q. This memorandum, which you have, will that tell us?

A. I think so, if I have it; I have not it with me.

Q. Did you look at his estimate of the value of the real estate?

A. I called his attention to it, and I asked him what value he had put upon the Brooklyn property; that is in the corner of President and Van Brunt streets.

Q. There is one piece of property there?

A. If I recollect aright; to the best of my recollection, I think that was put at \$30,000.

[Counsel for the superintendent suggests that the report of Mr. Reed to the superintendent shows just the figures that were affixed to these various kinds of bonds.]

Q. I am getting at the real estate; you called his attention to the President street property in Brooklyn, that it was put down at \$30,000; what did you say to him about it?

A. That I thought it was too much; we paid \$14,000 for it at auction.

Q. Did you tell him that?

A. My impression is I did; I would not like to swear.

Q. Did you tell him when you bought it?

A. No, I did not.

Q. Where did he say he got his information from in relation to these State stocks? did he name any one from whom he got the values?

A. I think not, to my recollection; I think he mentioned that he

had inquired of the highest authorities on the subject, where they ought to know.

Q. He did not mention names?

A. I think not; I do not think he mentioned names.

Q. Did you not expostulate with him a high price put on?

A. I do not know as I could use that word, exactly.

Q. Did you talk with him?

A. I claimed they were not worth that amount of money.

By Senator ST. JOHN:

Q. You thought that he had valued them too high?

A. Yes, sir.

By Mr. McKEON:

Q. With regard to the real estate, did he state how he reached the \$30,000?

A. The impression is strong that he put it at \$30,000; I looked upon it as a very high price for the property at any time; it has not been worth that for years.

Q. I want to know if he gave you any reason for putting it at that?

A. I do not say he did.

Q. Was there not another piece of Brooklyn property?

A. Yes, sir, there was a very small piece.

Q. What was the value he put upon that?

A. It is my impression it was \$6,000, but that was the only case; I did not go to particularizing about that.

Q. Did you know the value of that?

A. I should have conceived that was not far out of the way; that piece of property—I speak more properly of the other cases; that piece of property had been put into our reports by the secretary at a high price always, which I always refused to recognize.

Q. It was sold to the bank for \$14,000?

A. Yes, sir; bought at auction.

By Mr. CHAPMAN:

Q. And had been returned by the officers of the company yearly to the officers of the department at the value you put?

A. I think not by the bank; it was by the secretary it had been reported.

Q. The president and secretary swore to it year after year?

A. That I did not see them do.

By Mr. McKEON:

Q. There were proceedings taken by Mr. Bellamy, or some one else, to close the bank that fall?

A. That is only by hearsay that I know Mr. Bellamy went up to Albany.

[Objected to.]

Q. Do you recollect of making an affidavit in the fall of 1874 for the purpose of taking legal proceedings?

A. Yes, sir.

Q. To close the bank?

A. I do not know what they were for; it was for the purpose of bringing it before the authorities—that is the bank department.

Q. And you employed Mr. Bellamy to go up to Albany and deliver them?

A. Mr. Bellamy was the man employed on the 28th of September to go; it rained very hard the night he went away.

Q. Was it after that that you had a conversation with Mr. Ellis?

A. Yes, sir; after he had been to see Mr. Ellis, Mr. Ellis came down; Mr. Bellamy was in about ten o'clock in the morning and said Mr. Ellis would be in about twelve o'clock, which he was; Mr. Bellamy, myself, Mr. Floyd and Mr. Ellis were together in my office.

Q. After this paper reached Mr. Ellis' hands he had the conversation to which you have referred?

A. I suppose it reached him; it was after we had made the affidavits; he came in consequence of that paper being served upon him, or some paper being served upon him.

By Mr. CHAPMAN:

Q. Or left with him?

A. Or left with him; I do not know how it was; I was not there.

Q. When was this bank organized?

A. That I cannot tell you.

Q. About when, 1852?

A. 1852, I think.

Q. How many trustees had it in 1874?

A. I do not know how many there were.

Q. About how many?

A. It is my impression that there were 50 or 60; in that neighborhood.

Q. Of trustees?

A. Of trustees, I think, at its first organization; I was not present then; I only know that by hearsay; I was not in the bank at that time.

Q. You were not in the bank in 1874?

A. I was in the bank in 1874.

Q. At that time how many trustees were there?



A. To the best of my recollection about fifteen.

Q. Fifteen ?

A. I cannot tell you that, either.

Q. Were you a trustee ?

A. I was.

Q. How long had you been such then ?

A. I think I went in that bank in 1862, to the best of my recollection.

Q. And had been a trustee from 1862 to 1874 ?

A. Yes, sir.

Q. You attended the meetings as a trustee ?

A. Yes, sir.

Q. With great regularity ?

A. Pretty regularly.

Q. Don't you know the number of trustees ?

A. I cannot recollect now.

Q. Don't you know, after serving eleven years as a trustee ?

A. We had at different times a different number of trustees ; they were reduced once or twice, I think ; there were 30 at one time, and then 24, and then 20, and I think less than that, as they dropped away ; I cannot exactly tell.

Q. You could tell who generally attended ?

A. Oh, yes, sir, that I could tell.

Q. What committees were you on in 1874 ?

A. I was on this examining committee — the only one I recollect of at present.

Q. How often did you have a meeting ?

A. Once a month.

Q. You attended them regularly ?

A. Pretty regularly.

Q. Was this examining committee appointed for a special purpose in July, or was it a standing committee ?

A. No, sir, it was appointed for this purpose to the best of my recollection.

Q. Did you have a standing committee who examined accounts ?

A. Yes, sir ; a committee who examined the books.

Q. Annually or oftener ?

A. Every month.

Q. Who composed that committee ?

A. Jacob L. Fenn was one ; that had been altered a number of times.

Q. How in 1874 ?

A. I think Mr. Roberts was another, and ——— was another, I think, about that time.

Q. Their duty was to see that the bank was properly conducted, so far as the accounts were concerned, was it not?

A. I heard they did.

Q. Not what they did, but that was a duty that properly belonged to them?

A. I guess it was.

Q. That was a duty that properly devolved upon that committee, was it not?

A. What was?

Q. To see that the bank was properly managed, so far as the accounts were concerned — see that the accounts were correct?

A. To see that the accounts were correct — I believe that was what their business was.

Q. Under whose supervision were the annual reports made?

A. The secretary's and president's, I think.

Q. Who was the president of the bank?

A. Mr. Conklin — Mr. Alfred T. Conklin.

Q. Who was secretary?

A. Mr. Henry C. Fisher.

Q. Were the reports submitted to the finance committee, or examined by any other committee for verification?

A. I think not.

Q. How long had this president been acting as such, in round figures?

A. Six or seven years.

Q. And the secretary about the same length of time?

A. I think longer.

Q. How came you gentlemen to be appointed a special examining committee, inasmuch as there was a regular committee?

A. It was not their business — that kind of examination — to know what kind of stocks and bonds and how much we had; their duty was merely to look and see if the clerks did their duties properly and right.

Q. Had there been any other examining committee appointed for a similar purpose to this before?

A. I think there had been.

Q. You had not been on that committee before?

A. I had examined the bank before.

Q. And complained to the bank?

A. I had.

Q. How long before?

A. I think in 1873, and also I think in 1873, and I do not know

but in 1871, and I do not know but 1870 ; I cannot ascertain without looking.

Q. There was a difference between some of you gentlemen and the majority of the board of directors ?

A. There was a difference so far as the examination of values was concerned.

Q. The rest of the board of directors in fixing their valuation did not agree with you two gentlemen ?

A. I do not know as the board particularly set any price as to the valuation ; I think that Mr. Conklin and Mr. Fisher got up a statement in regard to the worth of the stocks, bonds and securities, and they submitted it to the board, and which was usually carried.

Q. Was there a division of sentiment between you gentlemen in the board along in 1874, which had been gradually growing ?

A. No more than there had been previously.

Q. Been growing up for a year or two ?

A. Not particularly, not that I could say ; there was no ill feeling to my knowledge ; I speak of my own self.

Q. You were not conscious of there being any difference of opinion as to the proper management ?

A. There was a difference of opinion in regard to the management of the institution and the worth of the securities.

Q. Who sided with you in this matter beside Mr. Floyd, if anybody ?

A. In these particular instances ?

Q. Yes ?

A. I do not know that I can say, but to my knowledge — I do not think it was put — and I do not know who disagreed ; the report was accepted and ordered on file, to my recollection.

Q. No further action was taken upon it ?

A. No further action was taken upon it to my recollection now ; there was no difference any further than this, that we were satisfied that the bank was not able to pay its indebtedness.

Q. That is you and Mr. Floyd thought so ?

A. Yes, sir ; and I think others thought so also.

Q. Can you mention any one ?

A. Well I do not know as I could answer that positively, but I got the impression sometime.

Q. Your view was that the bank was not able to pay its indebtedness after you had made this examination ?

A. That was my view.

Q. And the view was based upon the valuation which you carried out against these various items of assets ?

A. Yes, sir.

Q. Of course, if the valuations had been greater than those which were carried out, there would not have been a deficiency?

A. If you put them high enough there would not have been.

Q. Whether there was a deficiency or not depended entirely upon people's opinions as to the values of these various items?

A. No, sir, not at all.

Q. Did you get the actual value of this Brooklyn piece of property?

A. No, sir.

Q. Did you know the actual value — the real value — I am not asking about the market value — but did you get the real value of the North Carolina bonds?

A. No further than this.

Q. Answer my question; did you know the real value — not the market value — of the North Carolina bonds in July, 1874.

A. Leaving out the market?

Q. Yes, leaving out the market?

A. I cannot tell you what the real value was.

Q. Or the real value of either of the others?

A. No, sir; not in that sense I did not.

Q. The same is true of the Alabamas, is it not?

A. The real value of bonds is covered by the price in the market.

Q. A stock may have a market value of 50 to-day, and a week from to-day it may be worth par?

A. That is not very often the case.

Q. It is true; that is possible, is it not?

A. Put the question again, if you please.

Q. A stock may have a market value of 50 to-day, and a week or so from to-day it may be worth par?

A. It might.

Q. Then it would be actually worth very nearly par, would it not, in respect to its real value?

A. No, sir.

Q. You mean the real value is what it would bring to-day?

A. Just exactly what it will bring to-day; that is what the stock is worth, and it is not worth any more.

Q. Then a year ago, the Delaware and Lackawanna having a market value of 121 — that was its real value?

A. It was if you can sell it for that and get your money for it.

Q. Then you do not draw the difference between real and market value that I do?

A. Stocks may be covered sometimes in that way.

Q. My only idea in calling your attention to that is to draw your mind to the distinct idea that I have as respects the real value of the

stocks and their market value; did your bank hold any Louisiana stock?

A. No, sir; not to my knowledge.

Q. When were these stocks bought?

A. That I cannot tell you.

Q. About when was the Alabama stock bought?

A. That I cannot tell you from memory.

Q. Within five years?

A. Yes; I think I could come nearer than that; I should say 1870 or 1871, but it is only guess-work; the book shows for itself when they were bought.

Q. Do you know who moved that this stock be bought?

A. No, I cannot tell you now who it was.

Q. Do you know that you made the motion — you or Mr. Floyd?

A. No, sir; neither one of us.

Q. Do you recollect what you paid for them?

A. That I cannot tell just at the present moment, unless I should look; it is not in my mind.

Q. Who did buy them?

A. I have no doubt that I bought them, together with the committee.

Q. You bought them yourself?

A. With the committee, probably, that was appointed; I might have been a party to it.

Q. To the purchase of these bonds?

A. To the purchase; there was a committee appointed.

Q. On the subject of Alabama?

A. Alabama.

Q. How about the North Carolinas; did you buy those?

A. I do not know any thing about that, whether I did or not.

Q. What would be your impression?

A. My impression would be that I bought a part of them.

Q. How about the South Carolinas?

A. I have no doubt I purchased them also — a part of them.

Q. You did not protest against buying them?

A. I think I did the South Carolinas.

Q. But not these others, you did not?

A. No, sir; I thought they were very good; they were all, I presume.

Q. You bought as a member of the committee; how much did you pay for the Alabamas?

A. I have forgotten, to tell you the truth.

Q. Was it about 80 or 90?

A. It is my impression they were 90, or more.

Q. You paid 90?

A. I think that is the highest.

Q. It turned out that these bonds were good for nothing, or very nearly?

A. They could have been sold for sometime after for more than was paid for them.

Q. The real value of those bonds, from the time you bought them, turned out very little, didn't it?

A. It so seems.

Q. So, that it was largely a matter of opinion as to what they should be returned to the department in the annual statement, was it not?

A. I did not look at it in that way; if you ask me what I thought, I will tell you.

Q. I was asking for the fact; when you sit down to make a return to send to the department, estimating, as near as you can, in what way can you get at the value of these bonds, and carry them out at such a sum?

A. I look at the date of the official record, and if it says it sells at  $16\frac{1}{2}$ , I put it  $16\frac{1}{2}$ .

Q. Suppose it has no market value; suppose, now, if it is publicly sold, what do you do?

A. Then I go to parties, who are interested in that business, who buy and sell at private sale, and I ask of them, what is Alabama worth?

Q. Suppose you cannot find those, then what do you do?

A. I have never been placed in that position.

Q. If the superintendent of the banking department made inquiries, when he made these examinations, in regard to the value of these stocks — pursued just this course, he did just what he ought to have done?

[Objected to.]

A. I want the committee to judge of what he ought to have done.

Q. He could do nothing more than obtain the facts, out of which to form an opinion; is that true?

A. That is the only way he could do it, certainly; I showed Mr. Ellis — I had a price list when he was in my office — the price of some stock, and called his particular attention to them.

Q. What stocks were those?

A. South Carolina, for one, and probably all of them that were reported at that time.

Q. Have you any recollection in regard to it?

A. I think North Carolinas and South Carolinas — I called his attention particularly to them.

By Mr. McKEON :

Q. To the list you had of prices ?

A. To the price list.

Q. It was a published price list ?

A. Yes, sir.

Q. Go on and state what you said to him about them ?

A. I am not positive I said any thing about the Alabamas, but I did about the others.

Q. What did you say to him ?

A. I called his attention to the price of North Carolina bonds and South Carolina bonds, and I had a report of some that were sold that day or the day previous, that is the regular list of prices ; that is the way I got my prices.

By Mr. CHAPMAN :

Q. Did you have the price of three classes of North Carolina bonds ?

A. It may not have been reported — the three classes.

Q. I am asking you how you did ?

A. I am telling you ; I had these things there ; a friend called in — a person came in and said that is the price of these stocks ; that is what they sold for this day, and I called his attention to it ; I cannot tell the price now from recollection.

By Mr. McKEON :

Q. Did you call his attention to the fact that the prices he had on his price list were above yours ?

A. No, sir, he had not got through with his examination at that time ; afterward, when I met him the last time at the Metropolitan hotel, I did not have any price list there, I only asked him how he put 30 as the price of North Carolina ; he said it was an average of the North Carolinas ; that a few of them were higher ; that there was a difference in prices.

Q. How did his list of prices compare with your price list ?

A. They were a great deal higher.

By Mr. CHAPMAN :

Q. Your opinion was that he had estimated them too high ; that was your opinion, was it not ?

A. It was not my opinion at all, but what I knew, that he had estimated them too high.

Q. You had some Rochester bonds in there, had you not ?

A. Rochester ? yes, sir ; I think we had.

Q. He did not estimate them high enough as it turned out, did he ?

A. I forget.

Q. Did not those bonds appreciate in value after that quite largely ?

A. I bought them, and I ought to be credited with that, if it is so.

Q. Is it not the fact that they appreciated in value very much ?

A. Yes, sir.

Q. So you and he had a different value ?

A. Yes, sir ; we had a different value.

Q. You had the market value of that day ?

A. Of that day ; the time of the examination.

Q. They subsequently appreciated in value very largely ?

A. Yes, sir.

Q. Is the same not true of New York city bonds ?

A. I do not know whether we had any of them at that time or not ; I will not be positive ; it may be we had.

Q. The Brooklyns appreciated also at that time in value, after this ?

A. I do not know ; I cannot name the dates as far as that is concerned ; they did go up.

Q. And Buffalo bonds ?

A. And Buffalo also.

Q. Your estimate of values were wrong in some particulars, in that you estimated some so high that went lower, and some so low that they went higher ?

A. No, sir ; I did not do any thing of the kind, as I understand it.

Q. These New York city bonds, the Rochester bonds and Buffalo bonds and Brooklyn bonds, went higher shortly after your estimate ?

A. How shortly ?

Q. That is, they did after this appreciate in value ?

A. Certainly ; I do not doubt it.

Q. It is a fact that the estimate that you put upon these bonds at that time turned out to be less than what could subsequently be realized upon them ; that is true, is it not ?

A. Of what kind ?

Q. Along in July ?

A. What bonds do you say ?

Q. The Rochester, Buffalo's, New York city's, and Brooklyn bonds ; they increased in value ; they were beyond the figures you put upon them at that time ?

A. I have no doubt of that ; I do not recollect exactly what time, but they did improve in price.

Q. I do not ask you about when, but it is a fact that some of these bonds improved in price, and some fell in price, of course, according to the market ?



A. Yes, sir; we will say they did; I do not recollect about the particular time, or what it was — what the price was — that I put upon stocks or bonds at the time we examined.

Q. You put on them the market value at that time?

A. Yes, sir.

Q. The real value was matter of opinion?

A. I do not know as I ever heard of anybody putting any real value upon Erie railway stock in my life; a good many say it is not worth a copper, but it sells for a certain amount; the price it will bring.

Q. These other items, you think, have depreciated in value?

A. I do not recollect to particularize.

Q. But all you recollect of?

A. There may have been the whole of them; I never saw the whole statement of these bonds that he put in, at all; I do not know what the difference is.

Q. I mean the bonds you found there when you examined?

A. I don't know what he put the Buffalo bonds at.

Q. Those that were the subject of remark between you at any time?

A. I don't understand you.

Q. These Alabama bonds; South Carolina's and North Carolina's and this real estate — those are the only items in which there is any depreciation that you now recollect of?

A. I did not go any further than that; I don't know what he put the balance of them at; I merely for the purpose of asking how he only made \$25,000 deficiency — how he put in some of these stocks; I did not go any further, I did not know at what price he put in the others.

Q. You carried out the Alabama bonds at a less price in your list?

A. I think I did.

Q. How did you determine that price?

A. I went to parties who were dealing in the article.

Q. Cannot you tell to whom?

A. There were two of them on Broad street, and another in Exchange place.

Q. Did you ever see any published price of these bonds for a long time previous?

A. Not these particular bonds.

Q. You went to two persons?

A. And Mr. Floyd went with me, I believe.

By Senator ST. JOHN:

Q. To brokers?

A. Brokers, who were then in the business, dealing in certain securities and bonds ; brokers that were in that business ; if you went to a general broker they could not tell you any thing about it.

Q. Were these two gentlemen you went to partners? A. No ; they were two separate parties.

By Mr. CHAPMAN :

Q. You took their statement of what their opinion of the value of those bonds was ?

A. I did not ask what their opinions were ; I thought the best way was to get their statement of what they were worth.

Q. Was that any thing more than an opinion ?

A. If 25 or 35 is offered and the property is sold, that establishes a price.

Q. Did you offer these bonds for sale to them ?

A. I didn't own them to offer.

Q. Did you talk about the price to them ?

A. I asked them what it would cost for bonds of such a description.

Q. And that is the way you got at their opinion ?

A. I will not say positively ; it may be that is the way I got at it.

Q. Did you go as a buyer, or a seller ?

A. I don't know as I went as either ; we went for the purpose of ascertaining the value of these bonds.

Q. And you got their opinions of their value ?

A. I think we put them in a position to name them ; that is, name a price — what they would give or take — 35 or whatever the amount was.

Q. You put them down at 40 ; the difference between Mr. Ellis and you at that time was only ten per cent ; you put them down at 40, and he at 50 ?

A. I don't know whether he put them at 50 or 60, but I think the price was 35 ; I think we put it 40 so as to be perfectly safe in getting it high enough.

Q. There was no quoted value for these bonds ?

A. There was no quoted value to my recollection ; I had no object in view any further than to get as near the standing of the bank as possibly could be done.

By Senator ST. JOHN :

Q. Your investigation was that the bonds were worth in the neighborhood of 35 ?

A. Yes, but we thought we would put on a margin to make it safe, and put them down at 40 ; we had no interest to serve, no particular purpose to be carried out except to get at the truth.

By Mr. CHAPMAN :

Q. These bonds had been returned in the annual statement right along at a higher price ?

A. I think they had.

Q. How did you get at the value of the real estate ?

A. My way of getting at the value of the property was—

Q. Was that your own opinion, or did you get it after consultation with other people ?

A. According to our articles I think we used to call our property what we paid for it ; the value of the property as much as we paid for it ; you can't go into speculative affairs, and, as far as I understand —

Q. No matter about that ; had you, prior to that time of purchasing it, had a loan on this property ?

A. Yes.

Q. On a mortgage ?

A. Yes, sir.

Q. To what amount ?

A. \$15,000, I think.

Q. You foreclosed it ?

A. They foreclosed it and bought it in at \$14,000.

Q. The bank bought it in ?

A. Yes ; that is my best recollection.

By Senator ST. JOHN :

Q. It came to them in a legitimate way ?

A. Yes, as near as I can recollect.

By Mr. CHAPMAN :

Q. This property, prior to 1874, had been put down in your annual statements at how much ?

A. I can't tell ; the papers will tell better.

Q. Give it somewhere near ?

A. I think I had —

Q. I do not care about that ; how much did you return it at ?

A. I can't tell.

Q. \$40,000 or \$30,000 ?

A. I tell you that you can see from the report of the bank.

Q. You cannot come within \$10,000 ?

A. It would be an impression, and that is not worth any thing ; but I should say \$20,000 or \$25,000 they put it in for, or \$30,000 ; I can't tell you, as I said all along.

Q. When did the panic commence ; in October, 1873 ?

A. That I can't tell you.

Q. Was it not in the fall of 1873?

A. That property had brought \$50,000.

Q. The property had been sold for \$50,000?

A. Yes; I will give you the whole truth that I have.

Q. How long before that?

A. I was told so; it was only bought a few years ago; Mr. Goulard sold it for \$42,000 or \$44,000.

Q. When was this panic — when did it commence; in the fall of 1873, did it not?

A. I can't tell you.

Q. Values of all kinds have been gradually going down since that panic?

A. A great many things have.

Q. Almost every thing, real estate and almost every thing else?

A. Previous to that time it commenced — real estate did.

Q. And real estate has been falling since about near 1872?

A. I do not keep an account of that exactly, except a piece of property I particularly know.

Q. This piece of property that you speak of, what did it consist of?

A. It was built for a savings bank; there were a great many rooms in it, and it is well built; I think the house cost \$35,000 to Mr. Goulard.

Q. The building itself?

A. Yes, sir.

[Counsel for the receiver states that he is informed it recently sold for \$5,000.]

Q. When you put it at \$14,000 you made a mistake of \$7,000?

A. No, sir; I did not calculate that way.

Q. How many stories high is that building?

A. A four-story building; two buildings.

Q. A large, elegant building?

A. Two buildings; yes.

Q. There was a time, when this building was built, that it was supposed to be located in what was to be a great commercial locality?

A. I can't tell.

Q. It was speculative?

A. A speculative building; not that I am aware of; it was not a speculation; he owned the property and had owned it, and had been burned out before that, and he put up this building supposing he would sell it.

Q. You do not know, I suppose, whether Mr. Ellis made investigation and inquiry of different parties as to the value of these bonds?

A. No, sir.

Q. You know nothing about it?

A. No, sir; not in the least; I only took the aggregate.

Q. You do not know whether he ever owned one of the kind in the world himself?

A. Mr. Ellis?

Q. Yes?

A. No, I do not; I hope he owns a great many.

Q. I hope not of those bonds; the only way he could ascertain in regard to the value of this real estate was to make inquiries?

A. If he did not know himself, for there were no quotations.

Q. There would be no quotations of this identical piece of real estate?

A. I thought you spoke of something else; no, sir.

Q. That was the only way he knew; the proper way to fix these various items was by making inquiry — the only way was by inquiry?

A. If I should go through and tell exactly what I mean I should take a good many things into consideration.

Q. I don't ask you what you would do, but the only way Mr. Ellis had for ascertaining the value of these disputed items of account was by making inquiries around town of such parties as he could reach?

A. I should judge that by making inquiries of different parties I could get the information.

Q. How long after Mr. Bellamy went to Albany was it that Mr. Ellis came down to act?

A. I think, to the best of my recollection, he went on the evening of the 28th, and Mr. Ellis came down October 2, and arrived at noon — 12 o'clock; I guess he came down the same day that Mr. Bellamy did.

Q. He made an examination?

A. He so said.

Q. Did he ever write a letter to the president of the bank?

A. I never saw any to my knowledge.

Q. Was it submitted to the board of trustees?

A. It may be; I don't understand you.

Q. I ask you whether Mr. Ellis, after he made this examination and had gone back to Albany, did not write a letter to the president of the bank in relation to the condition of the bank?

A. That I can't tell you; as far as that is concerned I think there was a letter written and the contents spoken of in the board, but I don't not think I ever saw the letter.

Q. Did you not hear the letter read at the meeting of the board of trustees?

A. I will not say that I did not.

Q. Look over that letter and see if that letter was not read in your presence in the board of trustees [producing a paper to the witness]?

A. That I can't tell as far as that is concerned.

Q. Was there not a discussion — was not the letter discussed ?

A. I think the letter was discussed.

Q. A letter of Mr. Ellis, shortly after he had returned to Albany ?

A. That is my impression ; I don't think I read the letter.

Q. Did not you call upon the president to read the letter if he had the letter there ?

A. It may have been there, or it may not have been there.

Q. If the letter was under discussion in the board of trustees — a letter from the superintendent of the bank department, whom you had called upon — did you not ask to see the letter ?

A. If I did I have forgotten.

Q. You have no recollection whether that letter was there being discussed or not ?

A. I don't think the letter was itself ; the substance I presume was, because it spoke in regard to the trustees putting up some money ; as to the letter being all read, I don't recollect it, but the substance of it was talked in the board.

Counsel for the receiver offers the letter in evidence in the words following :

“STATE OF NEW YORK,  
BANK DEPARTMENT,  
ALBANY, October 19, 1874. } ”

“ A. T. Conklin, Prest. :

“ By the recent special examination made by Mr. Reed and myself of the condition of the Mechanics and Traders' Savings Bank, it appears that the bank, instead of having a surplus, as heretofore reported, is deficient to the amount of \$24,981.90. The assets of the bank consist largely of southern stocks, which are very much depreciated, and the market for which is so unstable and fluctuating that it is a matter of opinion and judgment what the exact deficiency is. It would undoubtedly, in the judgment of some, exceed the amount named, and in fixing the valuation of some of the securities where there is no determined valuation by sales in the market, it would, perhaps, be as fair and equitable to name a price which would increase the deficiency to \$50,000 instead of the sum reported to me.

“ It certainly is desirable for the bank to rid itself of this class of securities as fast as possible, with due regard to the ultimate interests of depositors, and substitute for them securities more permanent and certain.

“ I regret to find a lack of harmony in the board of trustees, which tends to cripple the success of the bank. Co-operation on the part of the managers can only insure the growth and prosperity of the institution.

"In view of your present condition, it will be necessary for the trustees to make good the existing deficiency to depositors, either by direct payment or by satisfactory personal bonds, guaranteeing the depositors against loss by the present impairment of assets.

"I would also suggest that all expenses not absolutely required in running the bank be dispensed with. It would seem that *one* paid officer, with his subordinates, would be all that would be needed until such time as your business is increased and your deficiency made good.

"Trusting you will submit this letter to your board at the earliest opportunity, and awaiting their action and reply,

"I am, sir, truly yours,

"D. C. ELLIS,

*"Superintendent."*

Q. This was soon after Mr. Ellis returned to Albany, and that is the mode in which you were to make up this equivalent?

A. To the best of my recollection.

By Senator ST. JOHN:

Q. How much were you, during this time that the bank was under a cloud, paying to the officers, clerks and employees of the bank in the form of salaries - - I mean in 1874?

A. I don't know exactly.

By Mr. CHAPMAN:

Q. How long was Mr. Ellis in making the examination?

A. I should think four or five days.

Q. Then when he returned to Albany he sent the president of the bank this letter, which was made the subject of a discussion among the trustees?

A. I don't recollect the letter being read, but the substance was talked of.

Q. You do not know any other communication between the bank and Mr. Ellis after that?

A. Not to my recollection.

Q. What the president or the secretary did, or what communication Mr. Ellis had with them, you have no personal knowledge?

A. It did not enter into my mind that they did; I know that the matter was talked of.

Q. Did you have a banking-house?

A. Yes, sir.

Q. In the examination and reports, I want to ask the question how that was returned and put down among your assets?

A. So far as concerned the bank itself?

Q. What was sent to Mr. Ellis; what was the value of that real estate — of the banking-house — that was put upon it by your papers?

A. I think it had been just previous to this — I don't recollect seeing the last report — at about \$100,000.

Q. What was the banking-house worth in 1874?

A. With a view of getting at the worth of that banking-house, I went to Homer Morgan and Ludlow for the purpose of getting the value of that piece of property; he said he would do it, and find out; that he would go and look at it and examine it, and give me a price for it at that time; in a week or ten days after he gave it to me; he went up and he said that a fair valuation of the bank under any other circumstances, he would put it \$70,000 or \$75,000; that he should say about \$75,000 was a fair valuation.

By Mr. CHAPMAN:

Q. Under those existing circumstances at that time?

A. He did not say about that time; I told him, and I have given you just what he did say.

Q. Are you sure that it was not reported that the cost price was \$79,000, and that the market value was \$100,000, to the department?

A. The report will tell; I can't swear to that.

Q. Did you not see this report?

A. I might; I can't tell how that was; I have no doubt it is so, but I say the report will tell for itself.

Q. Have you any doubt about the fact?

A. That it was reported at \$79,000?

Q. Do you know what the cost was?

A. About \$29,000 in the first place.

Q. What appears on the books as the cost of that property?

A. I have to refer to the books, but I guess about \$59,000.

Q. Seventy-nine thousand?

A. No, sir; it never cost \$79,000; that is not my report.

Q. Cannot you tell your own report, it shows here \$69,000 [producing a paper to the witness].

A. That is not my report, that is George N. Pratt's [the witness takes a paper], I can't recollect what I put it at — how much the banking-house cost, it is probably on the books.

Q. Was this taken from the books?

A. Probably; I can't say positively.

Q. How long had you had it?

A. I think it was 1861 or 1862.

Q. Then you had been expending upon it?

A. We expended \$29,000, in the first place, and then we raised it up so that its original cost, I think, was \$59,000.



Q. In 1870, 1871 and 1872, was \$100,000, as real estate rented then, too high?

A. I always thought so.

Q. You were a bear in the market and the board of trustees were bulls?

A. I was not at all, I am not bearing any thing, I try to be truthful.

Q. You insisted from 1870 to 1874, to the board of trustees, that these items you have spoken of should be rated down?

A. I think more than likely that was the case every time.

Q. Did you ever notify Mr. Ellis of that fact; did you ever complain of that report of Mr. Ellis, until this time?

A. I never saw Mr. Ellis in my life, until I saw him at my office; that was the first time I ever saw him; if I had been here when they were examined; if I had been there at the time they were examined, I should certainly have made that point decidedly.

By Mr. McKEON :

Q. You got information that you were to be called upon to pay up or give some security?

A. Yes, sir.

Q. Was there any thing done in the way of paying up, by the trustees?

A. Not that I ever knew of.

Q. No security in any shape or form?

A. Not that I am aware of.

Q. Nothing was done in accordance with this recommendation of the superintendent?

A. Not to my knowledge.

By Mr. CHAPMAN :

Q. Was not a committee appointed, to your knowledge, to take action in relation to this matter?

A. Not that I recollect; there may have been something of that kind.

Q. There was not the greatest harmony?

A. I never had any difficulty.

Q. They treated you fairly?

A. They treated me fairly, but they did not keep that bank straight; that I know.

Q. In regard to the Brooklyn property, you valued it at \$14,000?

A. We bought it for that.

Q. That was for one house, or both?

A. One house; we did not have the other one.

Q. The one was worth about the same?

A. No, sir.

Q. The other was worth about how much?

A. We had a loan upon that of \$5,000; I did not put in that next house; I put in the corner that we bought for \$14,000.

Q. And the two together would be worth \$20,000?

A. Yes, sir.

*Daniel A. Moran*, a witness, being duly sworn, testifies:

By Mr. McKEON:

Q. What is your business?

A. I am a banker and broker.

Q. Will you look over this list and see if you were a dealer in these stocks and know the value of them?

A. Yes; I deal in them.

Q. Look at this list and see if these are the prices of those stocks in June, 1874?

A. A little memorandum below says the above quotations are about July, 1874.

[Counsel for the superintendent objects to the proof, on the ground that evidence of value should be confined at the time the superintendent made his examination in the fall of 1874. Objection sustained.]

By Mr. CHAPMAN:

Q. Have you any means of knowing what they were worth about the 1st of October?

A. It is quite a long time ago.

By Senator Sr. JOHN:

Q. Suppose that you were to turn over your register or list of purchases and sales?

A. Several days may elapse before a transaction might take place.

Q. That is what you call the price when one offers and another bids?

A. I have only memoranda of actual transactions; I don't have memoranda of bids; I have memoranda of absolute transactions and sales.

By Mr. McKEON:

Q. You have memoranda of sales made about the 1st of October, 1874, and during the month of September?

A. Yes, I presume so.

*William Floyd*, a witness, being duly sworn, testifies :

By Mr. McKEON:

Q. Where do you reside ?

A. I live in Brooklyn.

Q. And do business in New York ?

A. Yes, in New York.

Q. Were you at any time connected with the bank called the Mechanics and Traders' Savings Institution ?

A. Yes.

Q. In what capacity ?

A. As trustee.

Q. Were you such in the month of July, 1874 ?

A. Yes, sir.

Q. How long before that had you been connected with the bank ?

A. I should think some twelve or fifteen years ; I I did not keep any memoranda of it.

Q. Did you ever make any examination into the condition of the bank ?

A. Yes.

Q. When was your first ?

A. That seems to cover a great deal of ground ; I have examined many matters from time to time.

Q. I will come down in the month of July, 1874 ; did you make one at that time ?

A. Yes, sir.

Q. Who was your associate ?

A. Mr. Ira W. Gregory and ex-Judge Tappan.

Q. Were you appointed a committee by a resolution of the board ?

A. Yes.

Q. What did you do first, and what were your duties ?

A. Our duties ; the board appointed us to examine the institution [Counsel for the superintendent suggests that the resolution should be produced as the best evidence.]

Q. In pursuance of that appointment you proceeded to do what ?

A. We proceeded to examine.

Q. What did you do ?

A. Judge Tappan was not with us.

Q. He did not attend ?

A. No, sir.

Q. Mr. Gregory and you did it ?

A. Yes.

Q. Tell us exactly what you did ?

A. As near as I can recollect the resolution was simply to inquire—  
[Objected to.]

Q. I will assume that you were directed, but state what you did?

A. We did more than what the resolution called for.

Q. Tell what you did?

A. We examined first in regard to the institutions, whether they had lost or made money for the prior six months; we then, inasmuch as we had got to work, deemed it best to ascertain what condition the institution was in at that time financially, and we resolved to examine the institution and find out.

[Objected to.]

[Resuming.] We examined two reports; I think they were embodied in one report.

By Mr. CHAPMAN :

Q. What report?

A. How the institution had run for the last six months; whether it had made or lost money, and then what condition it was in at that time.

By Mr. McKEON :

Q. What condition did you find it in?

A. We found it insolvent.

Q. Then finding it that, what did you do?

A. We brought up the report, made our report to the board and showed the condition we found the institution in, and told them that something should be done at once, either by curtailing expenses or something of that kind; that the bank was getting behind.

Q. What did the bank do in the way of dividends after that?

A. After that the bank declared a dividend, a regular semi-annual dividend of three per cent.

By Mr. CHAPMAN :

Q. After you had made this report to the board?

A. Yes, sir.

Q. They paid the dividend when?

A. In July; I am certain a dividend was made after we made our report; it may have been December.

Q. What did you do when the dividend was declared after you had made such a report?

A. How I voted?

Q. Did you assent or protest against it?

A. I protested against it.

Q. In what shape was your protest, in writing or not?

A. In a meeting of the board at that time, and I desire it to be placed upon the minutes by the secretary ; that was my desire.

[Counsel for the superintendent suggests that the minutes had better be produced.]

Q. Do you know how much you found the bank was behind ?

A. It was around \$200,000 ; I have forgotten the amount exactly.

Q. That was talked of by the board of trustees ?

A. Yes ; we made our report.

Q. That report was referred to in the minutes ?

A. Yes, sir.

Q. You made this report, do you recollect when ?

A. I do not ; I think it was August, 1874.

Q. Do you know a gentleman by the name of Bellamy ?

A. Very well.

Q. Did you have any thing to do with him ?

A. Yes, sir.

Q. What is his business ?

A. He is a lawyer.

Q. Living in Brooklyn ?

A. Yes, sir.

Q. Did you submit to him any papers ?

A. Yes, sir.

Q. What did you do ?

A. Shall I tell you why I went to him, and how I felt about the matter ?

Q. State the facts of what transpired ?

A. I was afraid that we would get into trouble.

By Mr. McKEON :

Q. Tell us what you did ?

A. I went to Mr. Bellamy and stated the condition —

[Counsel for the superintendent objects, unless the matter was brought to the knowledge of the superintendent.]

Q. You submitted certain papers to Mr. Bellamy, did you ?

A. I don't recollect that there were any certain papers submitted to him.

Q. You had communication with him ?

A. Yes, we had communication with him.

Q. After that did you see Mr. Ellis ?

A. Yes, sir.

Q. Tell us when it was you saw Mr. Ellis ?

A. That was after Mr. Bellamy submitted the paper in Albany to Mr. Ellis.

Q. Tell us what occurred after Mr. Bellamy had been up to Albany?

A. I saw Mr. Ellis in New York at Mr. Gregory's office; Mr. Bellamy also came there; he came down, as I understood, to investigate the institution, the Mechanics and Traders', and I believe he did so; I then saw him again, after he had done this, at the Metropolitan hotel one evening, through his invitation, I think; he also then told us that he had examined the institution, and he found it to be about \$25,000 insolvent; we asked Mr. Ellis how he had put the securities, as I and Mr. Gregory had taken a great deal of trouble to find out; he told us, of the North Carolina, South Carolina, banking institutions, etc., the rates he had put; we told him that he had put them too high altogether; that we had taken a great deal of pains to find out what they were worth, and they were not worth near as much money; Mr. Gregory told him he would sell them a great deal less that same day, these securities; then the banking-house was put down at \$100,000.

Q. You thought that was too high?

A. Yes, I thought so.

Q. Did you say so to him?

A. Yes, sir.

Q. What else?

A. That was about all; I urged Mr. Ellis, down at Mr. Gregory's office, that from my acquaintance of the trustees of the institution it could not be worse going on for the future; that I knew the men that had control of it.

Q. You told him so?

A. Yes, sir.

By Senator WELLMAN:

Q. Repeat that?

A. I told Mr. Ellis that that institution would be worse and worse, because of the men that had control of it.

By Mr. McKEON:

Q. That you knew the men?

A. Yes, that I knew them well.

Q. What did he say to that?

A. He said that there were institutions that were in a worse condition than that was.

By Mr. CHAPMAN:

Q. Prior to the examination?

A. This last conversation was prior to the examination.

By Mr. McKEON :

Q. When was it he told you that he found that the concern was insolvent to the extent of \$25,000 ?

A. That was at the Metropolitan hotel.

Q. That was afterward ?

A. Yes, sir.

Q. You had a conversation with him after that, in which he admitted he found the concern was \$25,000 behind ?

A. A little short of that.

Q. Then you asked him what price he put on the stocks ?

A. Yes, sir.

Q. Did he say how he had got at the price ?

A. I recollect that Mr. Ellis said [he asked some gentleman across the street, whom he happened to see on the corner opposite the building, what that building was worth, and this gentleman was quite certain he told me it was worth \$100,000.

Q. Did he give the gentleman's name ?

A. No, sir.

Q. Did he say any thing to you about the Brooklyn property ?

A. I don't recollect that he did.

Q. Did he say how he got the values of these Alabama, North Carolina and South Carolina stocks ?

A. I don't recollect.

Q. You will not say he did not ask of any one ?

A. No, sir ; Mr. Gregory, being a broker, did most of the conversation.

Q. Mr. Gregory told him that they were much too high ?

A. Yes, Mr. Gregory told him that he could sell them right off to him at a great deal lower rates.

Q. Were you present when the board brought up this letter written by Mr. Ellis [referring to the letter of October 19, 1874, introduced in evidence in the testimony of the previous witness] ?

A. I recollect that.

Q. Can you state whether, in view of the present condition of the bank, any thing was done by the trustees by direct payment or satisfactory personal bonds ?

A. No, sir.

Q. Nothing of the kind ?

A. No, sir.

Q. Can you tell me what was the want of harmony referred to in the direction referred to in Mr. Ellis' letter ?

A. Well, I don't know exactly that there was any, except that there was not any of the trustees who would want to make themselves liable for the deficiency.

Q. You do not understand my question ; were not some of them one way and some the other ?

A. Yes ; Mr. Ellis must have seen that there was not harmony in the institution.

Q. He says so in this letter ; what was that want of harmony arising from ?

A. Well, I don't know any better term than that I always considered there was a ring in the institution which I did not belong to ; that is as near as I can give it.

Q. You and Gregory were all one way, and they the other ?

A. Yes ; I had to fight with all the ability I had, and for years was always an outsider.

Q. You did not like the way things were conducted ?

A. No, sir.

By the CHAIRMAN :

Q. What sort of a ring was it that you speak of ?

A. The object seemed to be that some wanted to make more than was lawful ; I don't know of any other term to use ; I considered it so.

By Senator ST. JOHN :

Q. The want of harmony was occasioned by a difference of opinion in regard to investments and the general management of the bank ?

A. And the general management of the bank.

By Mr. McKEON :

Q. Was that fact communicated to Mr. Ellis, so that he must have been induced to write this statement ?

A. The fact that there was not harmony was communicated to Mr. Ellis.

Q. And what you differed about ?

A. I think so.

Q. So far as your recollection goes, in your conversations with Mr. Ellis, the reasons for this were communicated ?

A. I think so.

Q. You paid no money to make up the deficiency ?

A. No, sir.

Q. You gave no bonds ?

A. No, sir.

Q. To secure depositors ?

A. No, sir.

Q. Was there any action taken by the board ?

A. At every meeting, of course, I inquired if there had been any



further communication from Mr. Ellis, and whether any thing was going to be done; and, finally, they got up a hocus pocus report that the bank, that really made —

[Objected to.]

By Mr. CHAPMAN :

Q. Was that communicated to Mr. Ellis?

A. Yes; what I was going to say about the report —

Q. But we object to your characterizing it as “hocus pocus?”

A. I understood that they had reported to Mr. Ellis that the bank by some financial movement — I did not understand it — had made money enough to help her over this deficiency, and so reported to Mr. Ellis, some few meetings afterward.

By Mr. McKEON :

Q. Was that in writing; did you ever see it?

A. No, sir; I never saw it; I don't know but some of them went to Albany.

Q. I want to know whether it was in the shape of a report?

A. I am informed that there was.

Q. There was no such report in writing; was it communicated verbally?

[Objected to as hearsay. Counsel for the superintendent moves to strike out the previous answer.]

Q. Do you know whether any proceedings were taken on the part of the trustees of the bank in pursuance of this letter?

A. Simply what I have already stated, that either by communication or personally, it was so stated to the board that they had informed Mr. Ellis that the bank had made up that.

Q. You do not know that fact yourself?

A. No.

Q. Is there any thing in the minutes showing it?

A. I don't know that there is.

Q. Did you ever see Mr. Ellis after this meeting at the Metropolitan?

A. No, sir.

Q. Do you know of a communication from him to the bank, after that?

A. No.

Q. After the Metropolitan hotel conversation?

A. Only the one you spoke of.

Q. The one you spoke of is only hearsay?

A. I mean the letter you held in your hand.

Q. After that there was none?

A. I do not know of any more.

Q. Did you ever see him at the bank afterward?

A. No, sir.

[Counsel for the receiver calls for the production of the correspondence of the bank, referring to the subject of this inquiry.]

By Mr. CHAPMAN :

Q. Did you attend the meetings of the trustees of 1870, 1871 and 1872, with regularity?

A. I don't think I did ; I had a great deal of sickness in my family at that time.

Q. During 1874 you attended more regularly?

A. I think I did.

Q. Will the minutes show how frequently you were present at the meetings of the board of trustees?

A. I presume they do.

Q. Can you tell me how many trustees of the board you had in 1874?

A. No; there were 28 or 30, I think.

Q. In 1874?

A. Yes, sir.

Q. Do you recollect them to have been present during this time, and of being present with them?

A. I recollect of their being trustees, but not all present at one time,

By Senator ST. JOHN :

Q. There was not a full board?

A. Not a full board.

By Mr. CHAPMAN :

Q. What other committee were you a member of?

A. Only this I believe.

Q. Your idea was, that there was a "ring" in the institution which you did not belong to?

A. Well, yes.

Q. They held the offices?

A. Yes, sir.

Q. And controlled them entirely, irrespective of yours and Gregory's wishes?

A. Yes ; I think they did.

Q. The paying offices were subjects of contest, were they not, between the different members of the board?

A. What do I understand you by contest?

Q. Did you and Mr. Gregory endeavor to get control of some of the paying offices?

A. No, sir; I did not.

Q. Did you ever endeavor to get any of them — make an effort to get elected to them?

A. They ran me once for president of the bank; I was elected, I believe, but I did not get the place.

Q. They beat you out of it?

A. Yes, sir.

Q. These same fellows?

A. Yes, sir.

Q. What year was that, do you remember?

A. That, I think, must be 1875.

Q. That was in 1875, after Mr. Ellis had made this examination, you think?

A. I think it was.

Q. And they still did not have confidence in you?

A. I believe I had a majority of the votes.

By Senator ST. JOHN:

Q. Did they have a returning board?

By Mr. CHAPMAN:

Q. Was this an 8 to 7 arrangement again?

A. I guess it was; for my own character, I want to state that it came up all of a sudden, and I knew nothing about it.

By Senator ST. JOHN:

Q. It came up without any volition on your part?

A. No, sir.

By Mr. CHAPMAN:

Q. Did you have any thing to do with the getting up of these reports to the bank department?

A. No, sir.

Q. But you have seen the reports after they were printed during the year you were trustee?

A. I used to hear them read, and I used to hear the secretary make his report.

Q. You used to look them over and examine them, the printed reports for the bank superintendent?

A. I don't know that I did; I think I have.

Q. Being one of the trustees for fourteen or fifteen years, of course you examined the reports, did you not?

A. I read the secretary's report.

Q. You don't mean to say to this committee that all you knew about that bank was simply what the secretary read of his annual report, and you paid no more attention to it than that, as a trustee?

A. I think I did look through the printed reports usually, but not every year.

Q. You knew that the same items in the printed report were returned to the superintendent year after year.

A. Yes, sir.

Q. Did you have any hand in buying of these bonds?

A. I don't think I did.

Q. And did not protest against them when they were bought?

A. I can't say as to that.

Q. About what amount of assets did the bank possess, based on the examination of July, 1874; \$2,500,000, was it not?

A. About that I should think.

Q. In valuing these assets is where the deficiency which you found came in, was it not?

A. Yes, sir.

Q. There need be a difference of but one per cent to make up the deficiency which you found; it did not require more than one per cent to make up the deficiency?

A. That Mr. Ellis found?

Q. Yes.

A. But between his deficiency and ours there was a wide difference.

Q. The difference between your estimate of the condition of the bank and his estimate of its condition, was a difference of opinion between you as to the value of these assets?

A. No, sir, I do not think it was an opinion; we took a great deal of trouble to get posted up, not to form an opinion.

Q. Did you make these inquiries in regard to the value and assets, or did you rely upon Mr. Gregory's examination?

A. I went around myself to the different bankers; I went with Mr. Gregory and I went alone.

Q. If you knew the value, why was it necessary to make inquiries?

A. I did not until we made inquiries.

Q. It was a matter of opinion based upon information you obtained?

A. The information I got in the market; I went to a banker and asked him the price of Alabama's to-day, and if he was a reliable man I put that down.

Q. You took his statement and that goes to the making up of your opinion and the value of it.

A. Yes, sir.

Q. When he goes around he does the same thing, makes the same inquiries, and arrives at a different opinion?

A. Mr. Ellis?

Q. Yes.

A. I presume so.

Q. You do not know of his making any investigation — instituting any inquiry?

A. I cannot recollect of any.

Q. You do not know but he did?

A. No, sir.

Q. You do not know that he made efforts to ascertain the value of these assets?

A. No, sir.

Q. You know of Mr. Ellis doing nothing after the sending of that letter which has been shown, of October, to the president, until the bank was closed?

A. Nothing at all.

Q. He ultimately closed up the bank, did he not?

A. Yes, sir.

Q. Did you see the annual report which the company made after this letter was received from the department in 1875?

A. The annual report of the bank?

Q. Yes?

A. I do not think I did; I do not recollect it.

Q. You did not see that at all?

A. I do not think I did.

Q. Although you made this investigation in 1874, you had not interest to see what report the board made?

A. The report of 1875 — yes, I think I heard that report read.

Q. Did you examine it yourself?

A. No, I do not think I did.

Q. Did you make any protest against it to the board when it was read?

A. I do not recollect that I did.

Q. At that time there had been an appreciation of some of the stocks — some of the securities held by the company, had there not, over what they were in 1874? take the Rochester bonds, Buffalo bonds, New York city bonds and Brooklyn bonds?

A. I do not recollect that.

Q. Do you recollect one way or the other?

A. No, sir, I do not think I do; I had got our report up very carefully; that was all I got.

Q. That was in August, 1874 ?

A. Yes, sir.

Q. You made no subsequent examination of the bank ?

A. No, sir ; although in 1875 I think I went to the bank more or less every day five or six months regularly.

Q. Did you commence an action against the president at any time to have him removed from the bank ?

A. Yes, sir.

Q. When was that ?

A. The first suit was commenced — I think that was in 1873 — I kept no memorandum of it.

Q. About 1873 ?

A. Yes, sir ; against the president, as well as four trustees.

Q. You brought an action in the supreme court ?

A. Yes, sir.

Q. Was that action ever brought to trial ?

A. Yes, sir, I believe it was.

Q. Did you succeed in the action ?

A. There were four turned out ; Mr. Conklin was not.

Q. That was in 1873 ?

A. Yes, sir.

Q. You succeeded in getting a judgment and turning out four of these directors ?

A. I believe so.

Q. You did not succeed in turning out the president ?

A. No, sir.

Q. You know whether you got such a judgment or not, don't you ?

A. Mr. Woodward, Dr. Murray and Mr. Peck ; I believe there were four altogether, including Mr. Conklin.

Q. That you say was the first suit ?

A. Yes, sir.

Q. When was the second suit brought ?

A. The second suit, I think, was in 1875.

Q. After this examination ?

A. Yes, sir.

Q. Was that suit prosecuted to trial ?

A. Yes, sir.

Q. Did you succeed ?

A. No, sir.

Q. What officer did you go to at first in that suit in 1875 ?

A. What officer ?

Q. Yes ; did you take your papers in the first place to the attorney-general, and ask him to proceed in the second suit in 1875 ?

A. Yes, sir.

Q. You went first to the attorney-general?

A. Yes, sir.

Q. And he declined to proceed?

A. No, sir; Judge Davies was the attorney, and he wrote a letter to the attorney-general.

Q. And the attorney-general declined to proceed?

A. He instructed him to, I believe.

Q. Did they commence an action in behalf of the attorney-general?

A. Yes, sir; so I understood.

Q. In the attorney-general's name?

A. I presume so; so I understood it.

Q. Was that to appoint a receiver?

A. No, sir; there were two points in that case; one was to remove Mr. Conklin and place me as president of the institution —

Q. That was the result of election?

A. Yes, sir.

Q. A *quo warranto* proceeding?

A. I suppose so.

By Mr. McKEON :

Q. Was there not some question about Mr. Conklin not being authorized to hold the place?

A. Yes, sir; that is what I remarked.

By Mr. CHAPMAN:

Q. Was that suit tried?

A. Yes, sir.

Q. What was the result?

A. It was first brought before Judge Donohue —

Q. What was the result; did you turn him out?

A. No, sir.

Q. You did not succeed in getting him out in that case?

A. No, sir.

Q. Then was the other matter pushed, the appointment of a receiver?

A. No, sir; I think not; that had been done prior.

Q. There was no necessity for turning him out, if you had had a receiver appointed?

A. No, sir; there had been no receiver appointed.

Q. Did you take steps for the appointment of a receiver?

A. No, sir.

Q. Did you communicate these facts to Mr. Ellis?

A. No, sir.

Q. Did you have any communication with Mr. Ellis, since 1874, at any time?

A. No, sir; I think my attorney has.

Q. Who was he; Bellamy?

A. Yes, sir.

Q. You know nothing of that fact, of your own knowledge, except what he told you?

A. Yes, sir; that is all; the idea of this suit was in order, that as Mr. Ellis would not appoint a receiver, to get control of the bank and have it wound up in some other way.

[Counsel for the superintendent objects to the answer, as irresponsible, and moves that it be stricken out.]

[Resuming.] The idea was, if the suit was decided in my favor, and I got to be president of the bank, the first action taken would have been to have had a re-examination made, to lay the matter again before Mr. Ellis and the attorney-general.

Q. Why did you not, as a trustee, take steps to close the bank, if you wanted to have it in the hands of a receiver; in 1872 and 1873 and 1874, why did you not put the bank into the hands of a receiver, if it was insolvent?

A. Didn't I try to do so?

Q. I did not understand that you took any steps?

A. It was through my attorney that the whole matter was brought before the attorney-general.

Q. That was in 1876?

A. No, sir; 1874.

Q. Subsequent to that time why did you not proceed, aside from the attorney-general and the bank department, to throw the bank into the hands of a receiver?

A. The papers were all drawn up by my attorney to lay the matter before the supreme court, but in a conversation with some other lawyers — I think it was ex-Judge Davis — there were two reasons why I did not like to do it; one was, the effect it would have upon other institutions of a like character —

Q. During the delicate times?

A. Yes, sir.

Q. It was after the panic?

A. Yes, sir; and the second was, I knew that would make a run upon the bank, and the widows and orphans having money would fare worse because they would be the last ones to get it out.

Q. Those two points, would they not have much influence with Mr. Ellis, or had they not?

A. Mr. Ellis should have known that without my telling.



Q. That was what influenced your action in preventing you from proceeding — those two points ?

A. That was after the matter was laid before Mr. Ellis.

Q. You thought it was the part of wisdom not to proceed at that time, after you had had a consultation with your attorneys ?

A. But I looked upon the attorney-general.

Q. I say these two reasons were sufficient to control your action to prevent you from proceeding for the appointment of a receiver, were they not ?

A. What ?

Q. Those two reasons you have given, the effect upon the widows and orphans and also the effect upon the institution ?

A. After the matter had been laid before Mr. Ellis and the attorney-general.

Q. Then Mr. Ellis delayed for the same reason that you did ?

A. Well, I looked upon Mr. Ellis and the attorney-general as occupying a very different position from me ; they were fathers of the institutions and I was simply a trustee of one.

Q. It was your business to exercise a wise discretion as to what would be best for the depositors ?

A. Yes, sir.

Q. You know nothing as to any communications, that the president and secretary, or either of them, or any of their officers, may have made to Mr. Ellis, after 1874 ?

A. No, sir ; I do not recollect of any.

Q. There may have been communications and you know nothing about them ?

A. Yes, sir.

Q. They would not be apt to consult you if any of them existed ?

A. No, sir.

By Mr. McKEON :

Q. Did you not let Mr. Ellis understand how you felt in relation to these officers ?

A. Yes, sir, certainly I did.

Q. And the cause of it ?

A. Yes, sir.

Q. And your anxiety to have it corrected ?

A. Yes, sir.

Q. Did you distinctly state that you had ascertained that there was a deficiency of \$200,000 ?

A. About that amount.

Q. You stated that to him ?

A. Yes, sir, I think I did.

Q. That was before he went into the investigation ?

A. If I did not state it, he had my report.

Q. How do you know he had the report ?

A. Because Mr. Bellamy had taken it to Albany and laid it before him.

[Objected to on the ground that the witness speaks from hearsay.]

[Resuming.] He took the amounts from the identical papers that were in possession of the bank.

Q. He took the results ?

A. Yes, sir.

Q. In this conversation you speak of as having had with Mr. Ellis did you give him to understand that a report had been made showing, a deficiency of about \$200,000 ?

A. Yes, sir.

Q. In the next conversation with you he had found the deficiency to be only \$25,000 ; did he ask you to show how you made it \$200,000 ?

A. No, sir, I do not think he did ; we undertook to show him he was wrong.

Q. He did not ask you why you put it so much more ?

A. I think not ; he stated that he had put the Alabama's at 50 at that time ; we had a large amount of them at that time, and from the best information I could get, they were worth 35, flat, at that time.

Q. About this time you had lawsuits in relation to the occupation of the presidential chair ; will you tell me whether they made any offers to you as to salary ?

A. Yes, sir.

Q. What was it ?

[Objected to as incompetent and irrelevant. Counsel for the receiver insists that the witness ought to be permitted to show the fact that in all that he had done he had acted in good faith, and that offers had been made to buy the withdrawal of his opposition to the other trustees. The witness states that he thinks he ought to be allowed to answer the question, as it was important for him to show whether he had been working as he had for character or money.]

Q. Do you know whether Mr. Ellis ever knew that a salary had been offered to you and declined ?

A. No, sir ; I do not.

By Mr. CHAPMAN :

Q. You do not claim that there was any corrupt action on the part of Mr. Ellis in any way, do you — you do not find any evidence of it — or any thing of that kind ?

A. No, sir.

Q. Did you ever examine the banking laws to see whether he had violated any particular section of the banking laws?

A. No, sir; I do not think I did.

Q. You do not know, of your own knowledge, that he has run counter to any law, do you — I mean of your own knowledge; not a mere matter of opinion, because you may get opinions from a hundred different sources?

A. So far as —

Q. I withdraw the question if there is going to be any controversy about it; did you ever read the banking laws — that is, all of them, I mean?

A. I do not know that I have commenced to read it through, but I have read it back and forth — the different sections.

By Mr. McKEON:

Q. What did you find fault with?

A. That we were deficient \$200,000, and I told him if matters continued they would be only worse and not better, that the wrong kind of men were in control, and it was better to have the bank closed up.

Q. That was said to him?

A. That was said to him.

By Mr. CHAPMAN:

Q. Do you know that the other fourteen or fifteen directors said to Mr. Ellis, that they were the right kind of men, and that you and Mr. Gregory were the wrong kind of men?

A. How is that?

Q. Do you know whether Mr. Ellis consulted the balance of this board of trustees to see whether you were the right kind of a man?

A. Mr. Ellis told me —

Q. Do you know whether he did or not?

A. Only by his conversation.

By Mr. McKEON:

Q. Tell us that?

A. That was that the other trustees with whom he had conversation gave Mr. Gregory and myself pretty good characters; said that we were the right sort of men.

By Mr. CHAPMAN:

Q. You did not take any issue on that proposition?

A. Not at all.

Q. Do you know whether he inquired of these four men who you succeeded in turning out?

A. The three men — I don't know — I am on pretty good terms, I believe, with all of them now.

By Mr. McKEON :

Q. Did you pay your own legal expenses in this matter ?

A. Yes, sir.

Q. Is that your signature to this report [the paper marked, for identification A, of this date] ?

A. Yes, sir.

Q. The schedule is in whose handwriting ?

A. That is Mr. Gregory's.

Q. These were annexed to it at the same time ?

Adjourned to Tuesday, *April 24th*, at 10 o'clock, A. M.

NEW YORK, *April 24*, 1877.

The committee met pursuant to adjournment, at 10 o'clock, A. M.

Present — Senators COLEMAN (chairman), WELLMAN and ST. JOHN

*James M. Jackson*, a witness, being duly sworn, testifies :

By Mr. McKEON :

Q. You are a resident of the city of Brooklyn ?

A. Yes, sir.

Q. Are you engaged in any business in the city of New York ?

A. I have been connected with the Lorillard estate for the last 16 years directly, and indirectly for 25 years.

Q. Is that a large estate in the city of New York ?

A. Yes, sir.

Q. One of the largest ?

A. Yes, said to be.

Q. You are familiar with the value of real estate ?

A. I think so ; yes.

Q. Have been for years ?

A. I have been for years ; I have had a great deal to do in the way of making mortgages, and one thing and another.

Q. Have you seen the property belonging to the Mechanics and Traders' Savings Institution in the Bowery, in New York ?

A. Just above Houston street ?

Q. Just above Houston street ?

A. Yes, sir.

Q. A marble building ?

A. Yes, sir.

Q. What would you say was the value of that property in August or September, 1874 ?

A. About \$50,000, at that time.

Q. Were you present at the sale of it the other day ?

A. No, sir.

Q. Did you make inquiries about the value of the property before the sale ?

A. No, sir ; I did after the sale ; I was solicited by a lawyer in Wall street to appraise the property on Saturday afternoon, I think, about four o'clock ; I went up there and made an appraisement of it.

Q. When was that ?

A. I think it was a week ago last Saturday, or two weeks ; I will not be positive which.

Q. After this sale at public auction ?

A. It was after the sale.

Q. What appraisement did you put upon it then ?

[Objected to. The committee rule that no testimony is admissible as to the value of this property subsequent to July or August, 1874, at the time the report was made by Mr. Ellis, on the condition of the bank.]

By Mr. CHAPMAN :

Q. Do you know of any sales in that neighborhood in July or August, 1874 ?

A. I don't bring any to mind just now ; I don't know when the Bond Street Bank was built ; that was about 1874, I think, it might have been 1875 ; I won't be sure.

Q. Do you know of a lot being sold opposite this bank on the opposite side of the street, along about that time, between July and September ?

A. Nothing only that Bond Street Bank on the corner.

Q. The lot directly opposite ?

A. Not that I recollect.

Q. Your opinion as to the value has been asked recently for the first time, has it not ?

A. Yes ; I am not sure whether it was a week ago Saturday, or two weeks ; within a fortnight, at any rate.

Q. Within a month or two your attention has been called to the value of this property as it was in 1874 ?

A. No, sir ; it never has been asked until this present time.

Q. Your opinion is formed as to what its value then was, in the light of all subsequent funds?

A. At the present time?

Q. No, relative to the falling market?

A. Yes, the fact is I got a little above my own figures when I went to value it.

Q. I do not ask for that, I am merely getting at the foundation of your opinion?

A. I ascertained what the bank cost, and from that I make my opinion now.

Q. You do not judge from what the market value of property in that immediate locality was in 1874?

A. I do; I combine the two together.

Q. Did you know in 1874 the market value of property in that immediate locality?

A. I can't say that I particularly did, only as sales took place around there.

Q. Have you any knowledge of any sales taking place in that immediate vicinity?

A. Not particularly without it was the Bond Street Bank; I think that was built in 1874 or 1875.

Q. Can you state whether that was sold in 1874, 1873, or 1875?

A. No; I could not tell for certain; it has not been built there a great while; somewhere about three years ago, I think.

Q. How near this immediate locality have you any knowledge of sales being made, in July or August, 1874?

A. I have no knowledge of any, in particular, without, as I said before, it is the Bond Street Bank—the Bond street corner.

Q. Is it not possible that your opinion, as to the value of real estate in 1874, may be shaded somewhat by your personal knowledge of the depreciation of real estate?

A. No, sir; I don't think it is.

Q. Did you own any property in the immediate vicinity of this bank in 1874?

A. I owned an interest on the corner of Houston street and the Bowery, about 100 feet.

Q. Do you own that still?

A. The estate does; the Lorillard estate.

Q. You made no sales in that immediate vicinity?

A. No, sir; they don't make any sales.

Q. You made no purchase in that immediate vicinity?

A. No, sir.

Q. There has been a very great depreciation in the market value of real estate, has there not?

A. Oh, yes.

Q. When did the market value of real estate commence to go down ; before the panic of 1873 ?

A. No ; it did not commence until after the panic ; real estate held its own better than any thing else.

Q. Until when ?

A. I should think about 1874.

Q. About the middle of 1874 ?

A. 1874 and 1875 ; it was the last to go up and the last to come down.

Q. And in fact it was not until the latter part of 1874 and 1875 that real estate values commenced going the other way, was it ?

A. I could not say definitely.

Q. That would be your opinion ?

A. Yes.

Q. It has been gradually falling ever since ?

A. Yes ; pretty fast.

Q. About what, in your estimation, has been the depreciation in real estate ?

A. From 40 to 50 per cent.

By Senator ST. JOHN :

Q. You speak of from 1874 to the present time ?

A. Yes, sir.

By Mr. CHAPMAN :

Q. From the latter part of 1874, or the forepart of 1875, I understood it held its own ?

A. No ; hardly 1875.

Q. The latter part of 1874 ?

A. Yes, sir.

Q. From that time it has fallen ?

A. It has been gradually falling ; in fact, there has been no sales except forced sales.

Q. It has been thrown upon the market ?

A. Yes ; and had to be sold.

Q. Slaughtered ?

A. Yes ; a piece of property on Broadway is offered to us now for less than it is assessed at on the tax bills, not far from here either.

Q. Do you have any thing to do with stocks ?

A. No, sir ; I simply have charge of the Lorillard estate ; I am the superintendent of out-door repairs ; new work and old, and in the office as well.

Q. You do not sell any real estate?

A. No, sir.

Q. Do you buy?

A. They occasionally buy and they make loans.

By Mr. McKEON :

Q. Does not your experience cover almost every part of the city, and particularly below Fourteenth street?

A. Particularly below Fourteenth, or below Forty-eighth street.

Q. I don't want to know the extent of the Lorillard estate, but is it not in the neighborhood of millions?

A. It is pretty large.

Q. It is in the millions, is it not?

A. We are not supposed to know in the office.

Q. You estimate for the purpose of making loans on property?

A. Yes; I appraise all property that they loan on; of course, the gentlemen themselves look at it, as well; they generally go by my opinion.

By Mr. CHAPMAN :

Q. You would not be very apt to overestimate real estate if that was your occupation; you would estimate it in a safe way — conservative?

A. I would make a fair estimate for a safe loan, particularly if it was down to six per cent.

By Mr. McKEON :

Q. Do you loan at six per cent?

A. Yes, if it is gilt-edged — short time; I had an application for a loan on your bank for \$25,000, yesterday, at six per cent.

*Frederick P. Bellamy*, a witness, being duly sworn, testifies:

By Mr. McKEON :

Q. You are an attorney and counselor at law?

A. I am, sir.

Q. And residing where?

A. Brooklyn, New York.

Q. Were you, in the month of September or October, 1874, in any way connected with the investigation of the Mechanics and Traders' Savings Institution?

A. In the month of September, 1874, I was retained by Mr. William Floyd and Mr. Gregory, who were two of the trustees of the savings bank, as I was told, to look into the affairs for them and to



take some steps for the protection of the trustees and of the depositors in the bank, which they claimed was necessary to have done.

Q. What did you do?

A. They brought me statements purporting to show that the bank was largely insolvent; I prepared a summons and complaint upon certain facts.

Q. Is that a copy of the paper [producing a document]?

A. I think it is; I have not read it over; that looks as if it was a copy; I do not doubt it is.

Q. You prepared a draft of a complaint, and you believe that to be a copy of it, with the schedules?

A. Yes, it looks as if it was.

Q. Did that paper so prepared in any way reach the hands of Mr. Ellis?

A. The paper that I prepared I showed Mr. Ellis.

Q. And you believe that to be a copy?

A. I believe that is a copy.

The following is a copy of the complaint and accompanying schedules and affidavit:

*Report of the Mechanics and Traders' Savings Institution, an incorporated institution for savings, of its condition on the 1st day of July, 1874, made to the Superintendent of the Banking Department, as required by chapter 136 of the laws of 1857.*

#### RESOURCES.

1. Bonds and mortgages, as per schedule A, hereto annexed .....	\$748,150 00
2. Stock investments, as per schedule B, hereto annexed .....	1,703,039 75
3. Amount loaned on public stocks, as per schedule C, hereto annexed .....	.....
4. Amount loaned on stocks or bonds of private corporations, as per schedule D, hereto annexed ....	.....
5. Amount loaned on personal securities, as per schedule E, hereto annexed .....	.....
6. Real estate, standing on books at cost market value, \$130,554.55 — cost .....	109,582 05
7. Cash on deposit in banks or trust companies, as per schedule F, hereto annexed .....	82,009 12
8. Cash on hand not deposited in bank.....	20,000 00

9. Amount of assets not included under either of the above heads, the particular items of which are set forth in schedule G, hereto annexed.....	\$100,375 01
	<hr/>
	\$2,763,155 93
	<hr/> <hr/>

## LIABILITIES.

1. Amount due depositors.....	\$2,565,178 17
Principal.....	\$2,491,601 51
Interest credited for the 1st of July, 1874 .....	73,574 66
2. Other liabilities, viz.: Excess of cost.....	69,600 23
3. Excess of assets over liabilities .....	128,376 83
	<hr/>
	\$2,763,155 93
	<hr/> <hr/>

STATE OF NEW YORK, }  
City and County of New York. } ss.:

Alfred T. Conklin, President, and Henry C. Fisher, Secretary of the Mechanics and Traders' Savings Institution, an incorporated institution for savings, located and doing business at No. \_\_\_\_\_ street in \_\_\_\_\_, being duly and severally sworn, each for himself saith that the foregoing report and the schedules accompanying the same are in all respects a true statement of the condition of said institution, before the transaction of any business, on the morning of the first day of July, one thousand eight hundred and seventy-four, in respect to each and every of the items and particulars above specified, according to the best of his knowledge and belief.

A. T. CONKLIN, *President.*

H. C. FISHER, *Secretary.*

Severally subscribed and sworn by both depo- }  
nents, the 25th day of July, 1874, before me, }

FERDINAND LEVY,

*Commissioner of Deeds.*

SCHEDULE A.  
BONDS AND MORTGAGES.

No.	County where located.	In what City, Village or Town.	Principal unpaid.	Estimated value of mortgaged premises.	Rate of interest.
1	New York....	New York ..	\$4,000	\$10,000	
4	do .....	do ..	5,000	10,000	
5	Kings .....	Brooklyn ...	1,250	2,500	
9	do .....	do ...	2,000	4,000	
10	do .....	do ...	1,300	2,600	
15	New York....	New York ..	4,500	11,250	
19	Kings .....	Brooklyn ...	1,200	2,500	
23	do .....	do ...	800	3,000	
24	New York....	New York ..	600	7,500	
26	Kings .....	Brooklyn ...	1,600	5,000	
29	do .....	do ...	2,500	5,500	
37	New York....	New York ..	1,000	2,600	
45	do .....	do ..	5,000	20,000	
46	do .....	do ..	2,000	5,000	
47	Kings .....	Brooklyn ...	5,000	20,000	
50	do .....	do ...	500	2,500	
52	do .....	do ...	1,000	2,500	
53	New York....	New York ..	12,000	25,000	
55	do .....	do ..	5,000	10,000	
56	do .....	do ..	6,000	12,000	
57	do .....	do ..	2,500	7,500	
58	do .....	do ..	6,000	12,000	
59	do .....	do ..	4,000	15,000	
60	do .....	do ..	5,000	10,000	
61	do ...	do ..	6,000	15,000	
63	do .....	do ..	7,000	14,000	
64	do .....	do ..	10,000	20,000	
65	do .....	do ..	5,000	10,000	
67	Kings .....	Brooklyn ..	1,500	.....	
68	do .....	do ..	4,500	.....	
69	do .....	do ...	1,500	30,000	
71	New York....	New York ..	12,000	30,000	
72	do .....	do ..	4,000	10,000	
73	do .....	do ..	15,000	37,500	
76	do .....	do ..	15,000	37,500	
77	do .....	do ..	15,000	37,500	
79	do .....	do ..	14,000	37,500	
81	do .....	do ..	7,000	14,000	
83	Kings .....	Brooklyn ...	5,000	14,000	
84	New York....	New York ..	10,000	25,000	
85	Kings .....	Brooklyn ...	3,000	7,500	
88	New York....	New York ..	10,000	35,000	

## SCHEDULE A — (Continued).

No.	County where located.	In what city, village or town.	Principal unpaid.	Estimated value of mortgaged premises.	Rate of interest.
89	Kings .....	Brooklyn....	\$5,000	\$10,000	
90	do .....	do .....	5,000	10,000	
91	do .....	do .....	5,000	10,000	
92	do .....	do .....	4,500	30,000	
93	do .....	do .....	3,300	6,600	
94	do .....	do .....	3,300	6,600	
97	New York....	New York...	6,000	15,000	
99	do .....	do .....	2,500	7,500	
102	Kings .....	Brooklyn....	500	1,000	
103	do .....	do .....	8,000	16,000	
104	New York....	New York...	20,000	50,000	
105	do .....	do .....	6,000	12,000	
106	do .....	do .....	6,000	12,000	
107	do .....	do .....	8,000	16,000	
108	do .....	do .....	5,000	10,000	
109	do .....	do .....	6,000	12,000	
111	do .....	do .....	6,000	12,000	
112	do .....	do .....	6,000	12,000	
113	Kings .....	Brooklyn....	15,000	37,500	
114	New York....	New York...	10,000	20,000	
115	do .....	do .....	7,000	15,000	
116	Kings .....	Brooklyn....	6,000	15,000	
117	New York....	New York...	12,000	25,000	
118	do .....	do .....	8,000	16,000	
119	do .....	do .....	9,000	18,000	
120	do .....	do .....	5,000	10,000	
121	Kings .....	Brooklyn....	16,000	40,000	
122	New York....	New York...	5,000	15,000	
123	Kings .....	Brooklyn....	4,500	10,000	
124	do .....	do .....	1,000	40,000	
125	New York....	New York...	5,000	10,000	
126	Kings .....	Brooklyn....	2,000	4,000	
127	do .....	do .....	2,000	4,000	
128	do .....	do .....	12,000	35,000	
129	do .....	do .....	2,000	4,000	
130	do .....	do .....	3,500	7,000	
131	New York....	New York...	3,000	7,500	
132	do .....	do .....	7,000	14,000	
133	do .....	do .....	7,000	14,000	
134	do .....	do .....	7,000	14,000	
135	do .....	do .....	3,000	6,000	
136	do .....	do .....	4,000	8,000	
138	Kings .....	Brooklyn....	10,000	20,000	
139	New York....	New York...	10,000	20,000	
140	do .....	do .....	7,000	14,000	
141	do .....	do .....	7,000	14,000	

## SCHEDULE A — (Continued).

No.	County where located.	In what city, village or town.	Principal unpaid.	Estimated value of mortgaged premises.	Rate of interest.
142	New York.....	New York...	\$8,500	\$17,000	
143	do .....	do ...	6,000	15,000	
144	do .....	do ...	6,000	12,000	
145	Kings .....	Brooklyn ...	3,200	6,400	
146	New York.....	New York...	2,000	4,000	
147	do .....	do ...	2,000	4,000	
148	do .....	do ...	2,000	4,000	
149	do .....	do ...	2,000	4,000	
150	do .....	do ...	12,000	24,000	
151	Kings .....	Brooklyn ...	1,800	3,600	
152	New York.....	New York...	9,000	18,000	
154	Kings .....	Brooklyn ...	4,500	9,000	
155	New York.....	New York...	5,000	14,000	
156	do .....	do ...	10,000	25,500	
157	do .....	do ...	10,000	25,500	
158	do .....	do ...	10,000	22,500	
159	do .....	do ...	10,000	22,500	
160	do .....	do ...	10,000	22,500	
161	Kings .....	Brooklyn ...	2,000	4,000	
162	do .....	do ...	1,500	3,500	
163	New York.....	New York...	5,000	12,500	
164	Kings .....	Brooklyn ...	6,000	14,000	
165	New York.....	New York...	60,000	230,000	
166	do .....	do ...	11,000	25,000	
167	Kings .....	Brooklyn ...	5,000	10,000	
168	do .....	do ...	2,250	6,000	
169	do .....	do ...	2,250	6,000	
170	New York.....	New York...	8,000	24,000	
171	Kings .....	Brooklyn ...	5,000	11,000	
172	do .....	do ...	1,000	5,000	
173	New York.....	New York...	3,800	9,000	
			\$748,130		

## SCHEDULE B.

## STOCK INVESTMENTS.

NAME OF STOCK.	Rate of interest.	Cost.	Par value.	Estimated market value.
Tennessee State bonds .....	....	\$143,642 25	\$168,000 00	\$102,480 00
Alabama State bonds .....	....	157,700 00	166,000 00	147,740 00
North Carolina State bonds .....	....	74,550 00	114,600 00	36,672 00
South Carolina State bonds .....	....	90,050 00	155,000 00	31,000 00
New York City and County bonds .....	....	375,000 00	375,000 00	381,561 63
Brooklyn (Park) bonds .....	....	241,575 00	240,000 00	256,200 00
Brooklyn (Wallabout) bonds .....	....	16,057 50	17,000 00	17,845 00
Oswego City bonds .....	....	187,150 00	197,000 00	203,895 00
Buffalo City bonds .....	....	129,225 00	130,000 00	134,550 00
Rochester City bonds .....	....	253,500 00	256,000 00	265,460 19
Yonkers bonds .....	....	20,690 00	21,000 00	21,612 49
Morrisania bonds .....	....	3,000 00	3,000 00	3,275 01
Westchester County bonds .....	....	10,000 00	10,000 00	10,175 00
Total .....	....	\$1,703,039 75	\$1,852,600 00	\$1,612,466 32

## SCHEDULE F.

## CASH DEPOSITED IN BANKS OR TRUST COMPANIES.

NAME OF BANK OR TRUST COMPANY.	Location.	Amount on deposit.	Rate of interest.
Chatham Nat'l Bank..	Broadway .....	\$32,692 26	.....
Oriental Bank.....	Cor. Bowery and Grand	49,316 86	.....
Total .....	.....	\$82,009 12	.....

## SCHEDULE G.

Difference between market value and cost of the following investments:

	Excess of cost over market value.	Excess of market. value over cost.
United States stocks.....	.....	.....
New York State stocks .....	.....	.....
Stocks of other States.....	\$148,050 25	.....
Bonds of counties, cities and towns of this State.....	.....	\$57,476 82
Other stocks and bonds.....	.....	.....
Real estate .....	.....	20,972 50
Totals.....	\$148,050 25	\$78,449 32
Difference ....	*\$69,600 93	.....

*Loans, deposits, investments or assets of every description, not heretofore enumerated, viz.:*

† Interest accrued and uncollected July 1, 1874:

Bonds and mortgages.....	\$7,556 21
New York city and county bonds.....	4,811 63
Brooklyn city bonds .....	8,995 00
Tennessee State bonds..	.....
Oswego city bonds .....	6,895 00
North Carolina bonds .....	.....
South Carolina bonds .....	.....
Alabama bonds.....	6,640 00

\* If cost exceeds market value, the difference should be entered under the head, "Other liabilities," in the reports.

† As interest credited to depositors is stated among the liabilities, it will, of course, be just to include in this schedule the interest due, though unpaid, on investments.

Buffalo city bonds.....	\$4,550 00
Rochester bonds.....	8,820 19
Westchester county bonds.....	175 00
Yonkers bonds.....	612 49
Morrisania, N. Y., bonds.....	275 01
Judgment secured by real estate.....	5,004 48
Suspense account.....	41,000 00
	<hr/>
	\$100,375 01
	<hr/>

STATE OF NEW YORK, }  
BANK DEPARTMENT, } *ss.*

I, DeWitt C. Ellis, superintendent of the banking department of the State of New York, do hereby certify that I have compared the foregoing copy of a report of the Mechanics and Traders' Savings Institution of New York, showing its condition on the 1st day of July, 1874, with the original report on file in this department, and that I find the same a correct transcript therefrom and of the whole of such original, together with the indorsement thereon.

In testimony whereof I have hereunto set  
[OFFICIAL SEAL.] my hand and affixed my official seal this  
18th day of August, 1874.

HENRY L. LAMB,

*Deputy Superintendent.*

# NEW YORK SUPREME COURT—COUNTY OF ———

The People of the State of New York, plaintiffs,	} <i>Complaint.</i>
<i>agst.</i>	
The Mechanics and Traders' Savings Institution, defendants.	

The people of the State of New York, plaintiffs in this action, by Daniel Pratt, their attorney-general, complain of the defendant, and allege, upon information and belief, as follows:

*First.* That defendant, at the times hereinafter mentioned, was and now is a moneyed corporation, having banking powers and having the power to make loans on pledges or deposits created, organized and existing under and by virtue of an act of the legislature of the State of New York, entitled "An act to incorporate the Mechanics and Traders' Savings Institution," passed April 16, 1852, and the acts extending and amending the same.

*Second.* That the general business and object of defendant, prescribed by said acts, has been and is to receive on deposit such sums



as may be from time to time offered therefor by tradesmen, clerks, merchants, laborers, minors, servants and others, in such sums and on such terms as are allowed by said acts, for the purpose of being invested in such manner as is prescribed by said acts and by the general acts of the legislature of the State of New York applicable to savings banks, and to repay the same to depositors, when required, at such times, with such interest and under such regulations as the board of trustees may prescribe.

*Third.* That on or about July 25, 1874, the defendant made a report in writing to the superintendent of the bank department of the condition of defendant on July 1, 1874, as required by law, and that a copy of said report is hereto annexed, marked exhibit 1, and is hereby made a part of this complaint.

*Fourth.* That said report is incorrect in the following respects: 1. The item No. 6, in the table of resources in said report, to wit: "Real estate standing on books at cost, market value, \$130,554.55; cost, \$109,582.03," is untrue. The whole of the defendant's real estate on July 1, 1874, consisted and now consists of its banking-house on the Bowery, in New York city, and two houses in Brooklyn, one at the corner of President and Van Brunt streets, and one at No. 32 President street. The actual cost of the banking-house was \$66,725; of the house at the corner of President and Van Brunt streets, \$16,506.44, and of the house No. 32 President street, \$7,044.47. The true market value on July 1, 1874, of each one of said three parcels of real estate owned by defendant did not exceed, and was their cost price. The actual cost of all the real estate owned by defendant, and the true market value thereof, on July 1, 1874, was, therefore, \$90,275.91. The amount set down after item 6, in the table of resources, in said report, instead of being \$109,582.05, should be, \$90,275.91. 2. The item No. 9, in the table of resources, to wit: "Amount of assets not included under either of the above heads, the particular items of which are set forth in schedule G, hereto annexed, \$100,375.01," is untrue. The alleged assets mentioned in two items under schedule G, to wit: Interest accrued and uncollected July 1, 1874, on Alabama bonds, \$6,640; suspense account, \$41,000, are almost worthless. The State of Alabama has made default in the payment of interest on its bonds of the class owned by defendant for a year past, and there was no interest accrued and collectible on said bonds on July 1, 1874. The alleged asset of \$41,000, called suspense account, consisted of an almost worthless claim against one Joslyn, a bankrupt, the entire value of which, on July 1, 1874, did not exceed \$2,000. The amount, therefore, set down after the item No. 9 in the table of resources in said report, instead of being \$100,375.01, should be \$54,735.01, the difference between \$100,375.01 and the sum of \$39,000 and \$6,640.

3. The item No. 2 in the table of liabilities in said report, to wit "Other liabilities, viz.: excess of cost, \$69,600.93," is untrue. The "stocks of other States," referred to in said schedule G, are those of Tennessee, Alabama, North Carolina and South Carolina, mentioned in the first four items in schedule B, annexed to said report. The following table, taken from schedule B, shows the cost of said bonds and the estimated market value thereof, as set down in said report:

Name of State bond.	Cost.	Estimated market value.
Tennessee .....	\$143,642 25	\$102,480 00
Alabama .....	157,700 00	147,740 00
North Carolina .....	74,550 00	36,672 00
South Carolina .....	90,050 00	31,000 00
	<hr/>	<hr/>
	\$465,942 25	\$317,892 00
	317,892 00	<hr/>
	<hr/>	
	\$148,050 25	
	<hr/>	

By subtracting the total of estimated market value from the total of the cost, there appears to be a difference of \$148,050.25 of excess of cost over market value as stated in said schedule G. But the estimated market value of said bonds on July 1, 1874, as stated in schedule G, is incorrect. The true market value on July 1, 1874, of said Tennessee bonds, instead of being \$102,480, was \$100,800; of said Alabama bonds, instead of being \$147,740, was \$66,400; of said North Carolina bonds, instead of being \$36,672, was \$23,120; and of said South Carolina bonds, instead of being \$31,000, was \$28,673. The following table shows the cost of said bonds and the true market value thereof on July 1, 1874:

Name of State bond.	Cost.	True market value.
Tennessee .....	\$143,642 25	\$100,800 00
Alabama .....	157,700 00	66,400 00
North Carolina .....	74,550 00	23,120 00
South Carolina .....	90,050 00	28,675 00
	<hr/>	<hr/>
	\$465,942 25	\$218,995 00
	218,995 00	<hr/>
	<hr/>	
	\$246,947 25	
	<hr/>	

By subtracting the total of the true market value of said bond on July 1, 1874, from the total of the cost, there remains the actual excess of cost over the true market value of \$246,947.25. The amount

therefore in schedule G, after "stocks of other States, excess of cost over market value, instead of being \$148,050.25, should be \$246,947.25." The bonds of counties, cities and towns of this State referred to in schedule G, are those mentioned in schedule B, after the first four items. The following table taken from schedule B, shows the cost of said county, city and town bonds, and the estimated market value thereof, as set down in said report:

Name of stock.	Cost.	Estimated market value.
New York city and county.....	\$375,000 00	\$381,561 63
Brooklyn city park.....	241,575 00	256,200 00
"    Wallabout .....	16,957 50	17,845 00
Oswego city.....	187,150 00	203,895 00
Buffalo city.....	129,225 00	134,550 00
Rochester city.....	253,300 00	265,460 19
Yonkers city.....	20,690 00	21,612 49
Morrisania town.....	3,000 00	3,275 01
Westchester county .....	10,000 00	10,175 00
	<hr/>	<hr/>
	\$1,237,097 50	\$1,294,574 32
	<hr/>	<hr/>
		1,237,097 50
		<hr/>
		\$57,476 82
		<hr/>

By subtracting the total of cost from the total of the estimated market value there appears to be a difference of \$57,476.82 of estimated market value over cost, as stated in schedule G. But the estimated market value of said bonds on July 1, 1874, as above stated, is incorrect. The true market value on July 1, 1874, of said New York city and county bonds, instead of being \$381,551.63, was \$375,000.00; of said Brooklyn city park bonds, instead of being \$256,200.00, was \$247,200.00; of said Brooklyn City Wallabout bonds, instead of being \$17,845.00, was \$17,670.00; of said Oswego city bonds, instead of being \$203,895.00, was \$177,300.00; of said Buffalo city bonds, instead of being \$134,550.00, was \$128,700.00; of said Rochester city bonds, instead of being \$265,460.19, was \$256,000.00; of said Yonkers city bonds, instead of being \$21,612.49, was \$20,690.00; of said Morrisania town bonds, instead of being \$3,275.01, was \$3,000.00; and of said Westchester county bonds, instead of being \$10,175.00, was \$10,000.00. The following table shows the cost of said bonds and the true market value thereof on July 1, 1874:

Name of stock.	Cost.	True market value.
New York city and county .....	\$375,000 00	\$375,000 00
Brooklyn city park.....	241,575 00	247,200 00
Brooklyn Wallabout.....	16,957 50	17,170 00
Oswego city.. .....	187,150 00	177,300 00
Buffalo city .....	129,225 00	128,700 00
Rochester city.....	253,500 00	256,000 00
Yonkers city .....	20,690 00	20,690 00
Morrisania town .....	3,000 00	3,000 00
Westchester county .....	10,000 00	10,000 00
	<hr/> \$1,237,097 50	<hr/> \$1,235,060 00
	1,235,060 00	<hr/> <hr/>
	<hr/> \$2,037 50	

By subtracting the total of the true market value from the total of the cost, there remains an excess of cost, over the true market value of said city, county and town bonds, amounting to \$2,037.50. The amount, therefore, in schedule G, after "Bonds of counties, cities and towns of this State," instead of being \$57,476.82, in the column of excess of market value, our cost should be \$2,037.50 in the column of excess of cost over market value. The item in schedule G, "Real estate, excess of market value over cost, \$20,972.50," being the difference between the alleged market value and alleged cost, as stated in item 6, in the table of resources in said report, ought not to be set down in schedule G at all. The true market value, on July 1, 1874, of defendant's real estate, did not and now does not exceed its cost price, as hereinbefore set forth. The following table correctly states the items incorrectly stated in schedule G:

	Excess of cost over market value.	Excess of market value over cost.
Stocks of other States .....	\$246,947 25	.....
Stocks of counties, cities and towns ....	2,027 50	.....
	<hr/> \$248,964 75	<hr/> .....

The amount, therefore, set down after the number 2 in the table of liabilities in said report, to wit: "Other liabilities, viz., excess of cost," instead of being \$69,600.93, should be \$248,964.75.

The said report, in respect to the matters not hereinbefore referred to and corrected, is, with the exception of certain immaterial and trifling errors, correct. The tables contain a true statement by reason of the premises of the resources and liabilities of defendant on July 1, 1874:

## RESOURCES.

1. Bonds and mortgages.....	\$748,150 00
2. Stock instrument at cost.....	1,703,039 75
3. Real estate at cost.....	90,275 91
4. Cash.....	102,009 12
5. Assets not otherwise included....	54,735 01
Total assets.....	<u>\$2,698,209 79</u>

## LIABILITIES.

1. Amount due depositors.....	\$2,565,178 17
2. Other liabilities, excess of cost.....	248,964 75
Total liabilities.....	<u>\$2,814,142 92</u>
	<u>2,698,209 79</u>
Total deficit.....	<u>\$115,933 13</u>

*Fifth.* That by reason of the premises, the said report is untrue in attributing to defendant on July 1, 1874, a surplus of \$128,376.83; that on July 1, 1874, the defendant had not a surplus or excess of assets over liabilities of \$128,376.83, or of any amount whatever; that defendant's assets on said date did not exceed its liabilities; that in fact, on said date the liabilities of defendant exceeded its assets in the sum of \$115,933.13; that no material change for the better in the condition of defendant has taken place since July 1, 1874; that the liabilities of defendant now exceed its assets in a sum of more than \$100,000; and that defendant, on July 1, 1874, was, for a considerable period has been, and now is, insolvent and unable to pay its debts.

*Sixth.* That the trustees of defendant have made and declared a dividend or payment of interest of three per cent on the amount of each deposit for the six months, ending July 1, 1874, which was not made from the surplus profits arising from the business of said corporation. That the total amount of said dividend or interest on all deposits, payable July 1, 1874, is \$73,574.66. That the receipts of defendant during said six months ending July 1, 1874, after deducting the expenses of the business, was \$60,697.37, and that the net receipts of defendant during said six months were less than said dividend, and that said dividend cannot be paid in full by defendant without encroaching on the principal of the assets of defendant.

*Seventh.* That during several years past the business of defendant has been conducted at a loss, and there has been a gradual diminution of the surplus held by defendant, and increase of its deficit. That in general the defendant's business has been conducted in a wasteful and

extravagant manner ; that the excess of its liabilities over its assets has been for some time past increasing, and that there is no reason to expect any rise in the value of defendant's depreciated securities, or that defendant can in future successfully continue business.

Wherefore plaintiffs pray :

1. That defendant and its officers, employees, agents and servants, and each of them, be enjoined and restrained from exercising any of defendant's corporate rights, privileges or franchises, and from collecting [or receiving any debts or demands, or from receiving any further deposits, and from paying out or in any way transferring or delivering to any person any of the deposits or moneys, property or effects of defendant until the further order of this court.

2. That a receiver of defendant's property and effects be appointed pursuant to the provisions of the revised statutes with all customary and necessary powers.

3. That said corporation, the defendant, be dissolved and annulled, and its assets, property and effects distributed according to law.

4. That plaintiffs have such other and further relief as may be just, with the costs and disbursements of this action.

CITY AND COUNTY OF NEW YORK, ss. :

William Floyd, being duly sworn, says: I reside at the city of Brooklyn, in the State of New York, and am one of the trustees of defendant; I am acquainted with the facts stated in the foregoing complaint: it is true to my own knowledge, except as to the matters therein stated upon information and belief, and as to those matters I believe it to be true.

WM. FLOYD.

Sworn to before me, this 29th }  
day of September, 1874, }

GEO. C. HOLT,  
*Notary Public, Kings Co.*

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NEW YORK SUPREME COURT.

The People of the State of New York	}
<i>agst.</i>	
The Mechanics and Traders' Sav- ings Institution.	

CITY AND COUNTY OF NEW YORK, ss. :

William Floyd, being duly sworn, says: I am one of the trustees of defendant, and have been since 1862 ; I have read the complaint in this action and the affidavit of Ira W. Gregory hereto annexed ; the

said complaint and each and every fact stated therein is true to my own knowledge, except the facts stated in the third paragraph thereof, and those facts I verily believe to be true; I know of my own knowledge that each and every fact stated in the said affidavit is true; I was one of the committee mentioned in the second paragraph of said affidavit, and as a member of such committee made personally a thorough examination in July, 1874, of the condition of defendant.

WM. FLOYD.

Sworn to before me, this 29th {  
day of September, 1874, }

GEO. C. HOLT,  
*Notary Public, Kings Co.*

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## NEW YORK SUPREME COURT.

The People of the State of New York <i>agst.</i>	}
The Mechanics and Traders' Sa- vings Institution.	

CITY AND COUNTY OF NEW YORK, ss.

*Ira Gregory*, being duly sworn, says:

1. I reside at the city of Brooklyn, in the State of New York; I am (and since 1862 have been) a trustee of the Mechanics and Traders' Savings Institution, the defendant in this action; I am acquainted with the facts stated therein; the said complaint, and each and every fact stated therein is true to my own knowledge except the facts stated in the third paragraph of said complaint, in regard to the making of the semi-annual report by defendant to the superintendent of the banking department for the six months ending July 1, 1874, due proof of which facts appears from the certificates of said superintendent attached to the copy of said report annexed to the complaint.

2. Shortly after July 1, 1874, I was appointed one of a committee of the board of trustees of defendant to examine and report upon the condition of defendant, and whether it had made money in the preceding six months; as one of said committee I made personally a thorough, detailed and painstaking examination of the condition of defendant and of the value of its assets, particularly of its real estate and its bonds of States, cities, counties and towns; I made thorough inquiry as to the value in the market of the depreciated securities of defendant, consisting of bonds of Tennessee, Alabama, North Carolina and South Carolina, and also of the city, county and town bonds owned

by the defendant, and their market value on July 1, 1874, as stated in the complaint, I am certain is correct.

3. About July 1, 1874, and before July 25, 1874, the secretary of defendant made a report to the board of trustees of the condition of defendant on July 1, 1874, of which the following is a copy :

		Market value.
Bonds and mortgages. ....	\$748,150 00	\$735,706 21
City and county bonds.....	375,000 00	381,561 63
Brooklyn park.....	240,000 00	256,200 00
Tennessee bonds.....	168,000 00	102,480 00
Oswego city bonds ...	197,000 00	203,895 00
North Carolina.....	114,600 00	36,672 00
South Carolina .....	155,000 00	31,000 00
Alabama .....	166,000 00	147,740 00
Buffalo city.....	130,000 00	134,550 00
Rochester water bonds.....	256,000 00	265,460 00
Westchester county.....	10,000 00	10,175 00
Town Yonkers.....	21,000 00	21,612 49
Wallabout improvement .....	17,000 00	17,845 00
Morrisania .....	3,000 00	3,275 01
Real estate .....	130,554 55	130,554 55
Cash .....	102,009 12	102,009 12
Judgment real estate .....	5,009 12	5,004 48
		<hr/>
		\$2,605,740 68
Due depositors.....		2,565,178 17
		<hr/>
		\$40,562 51
		<hr/>

When the report annexed to the complaint showing an apparent surplus for defendant on July 1, 1874, of \$128,376.83 was made and verified by Alfred T. Conklin and Henry C. Fisher, said Conklin and Fisher well knew that said report above set forth, showing an apparent surplus of only \$40,562.51 on said July 1, 1874, had been made to the said board of trustees by said Fisher.

4. It appears by the reports of defendant, as published in the annual reports of the superintendent of the banking department, relative to savings banks, that the defendant has, for several years past, been doing business at a loss.

In such reports the surplus of defendant in the year 1871, is stated to be \$280,973.50; in the year 1872, \$158,721.21; in the year 1872 an examination of defendant was made by examiners appointed by the



superintendent of the banking department, pursuant to chapter 693, of the law of 1871, and the report of such examination was published and appears on page 265 of the printed annual report of the superintendent of the banking department, relative to savings banks, transmitted to the legislature.

February 4, 1873; by such report the surplus of defendant is stated to be \$100,167.06; the examination is stated to have taken place on April 8th and 9th, 1872; at the foot of said report is published the following note:

“At the date of the examination of this institution, the very considerable amount of securities held which produced no income; the uniformly high rate of interest allowed upon all deposits, combined with a rate of expenditure not warranted by existing condition, was found to result in an excess of charges over the incomes derived from investments as they then stood. The attention of the trustees was directed to this condition of affairs as demanding their immediate attention and correction. In reply the superintendent was assured that the matter was already under consideration by the trustees, and that since receiving his letter measures had been matured by a very considerable reduction in expenditure and interest charges, and by a change in the investments that would result in augmenting the income, whereby the condition of affairs to which attention had been called would be so materially improved as no longer to invite criticism. In this view it is not deemed expedient to report transitory and, as it would appear, casual conditions which were so immediately changed, for those of more favorable, and, it is to be hoped, of a permanent character.”

6. The assurances alleged in the above note or statement, to have been made to the superintendent of the banking department were but partially fulfilled; a reduction was made in the amount of salaries effecting a saving of about \$7,200 a year in the expenses of defendant. But with this exception no measures were matured, by a very considerable reduction in expenditure or interest charges or by a change in investments, that resulted in augmenting the income, nor has the condition of the affairs of defendant materially improved. The conditions referred to in said note were not transitory or casual, but permanent and fixed, and were not immediately and have never been changed for those of a more favorable character.

7. On the contrary, since said examination in April, 1872, the pecuniary condition of defendant has steadily grown worse. The committee, of which I was a member, and to which I have referred in the second paragraph of this affidavit, reported to the board of trustees early in August, 1874, that the defendant's liabilities exceeded its assets by more than the amount alleged in the complaint. No action

has been taken by said board of trustees upon such report, nor have any measures been devised or adopted with a view to restore the defendant to a solvent condition. I have hesitated, as a trustee, to cause legal proceedings to be taken in the matter so long as it seemed possible for the defendant to again become solvent. But I am now convinced that it is impossible, and I believe that the true interests of the depositors, of the public and of all parties concerned require that the defendant be restrained from transacting further business, that its assets be distributed to its creditors, and that the corporation itself be dissolved.

I. W. GREGORY.

Sworn to before me, this 29th }  
day of September, 1874. }

GEO. C. HOLT, *Notary Public, Kings County.*

*Examination resumed :*

Q. You presented this original complaint, with the papers annexed, to Mr. Ellis ?

A. Yes, sir.

Q. In September, 1874 ; at what time ?

A. It was a day or two after that.

Q. A day or two after the date of the verification ?

A. Yes ; my impression is that I went to Albany the next night, or perhaps that very night ; I remember going up on the boat.

Q. And seeing Mr. Ellis there ?

A. I saw Mr. Ellis in his office in Albany.

Q. State the conversation between you and Mr. Ellis ?

A. I don't recollect the exact words of the conversation, but I told him that two of my clients, Mr. Floyd and Mr. Gregory, had asked me to come and see him in reference to the affairs of the Mechanics and Traders' Savings Bank, which they regarded to be insolvent ; and I told him I had prepared a summons and complaint stating these facts and showing that the bank was insolvent for, as they claimed, from \$180,000 to \$200,000, and that they were anxious that the institution should be closed up, as they felt that their responsibilities as trustees were too great under the circumstances ; at any rate they felt that it was their duty to lay this matter before the court ; we compared some of the statements in the complaint with the statements contained in the report of the bank examiner which Mr. Ellis had in his office.

By Mr. CHAPMAN :

Q. The report of the bank examiner, or the report of the company to the department ?

A. I guess that was it; it was in the published volume.

Q. Report to the department?

A. Yes; then I think I showed him also the quotations of the stocks and securities owned by the bank, that day or the day before, showing the discrepancy and exactly where it was, as we claimed.

By Mr. McKEON:

Q. Do you recollect about the State stocks?

A. Yes, the southern securities were the main points, of course.

Q. And you called his attention specially to that?

A. Yes, I remember doing that.

Q. Did you look over the complaint?

A. We undoubtedly looked over the complaint together, because that was the only evidence I had of my authority; Mr. Ellis expressed himself somewhat surprised—a good deal surprised—at the state of the institution, but said he did not approve of the bank being put into the hands of a receiver, if it could be avoided, but that he would go to New York and examine it personally.

Q. Did not he come down with you?

A. I told him that we were very anxious that something should be done immediately, and I would be very much obliged to him, if he would come down with me that night, or at once; I told him I was coming down that night, and, after some conversation, he said he would come down, and he went with me to New York, on the boat, that night; and I do not know that I have seen Mr. Ellis in reference to the affairs since.

Q. Did not you see him after making an examination?

A. No, I have had no conversation with him certainly in reference to the affairs since that time.

Q. Did not you see him after he came down; just look at that [handing the witness a paper]; that may remind you of something?

A. I must have seen him, but I don't recollect; I must have seen him or heard from him.

Q. Did he give you any idea of what he was going to do?

A. No, he did not give me any idea of what he was going to do, except he was going to examine it; he expressed himself as disposed to protect the people.

Q. Did you write to him?

A. I did; yes.

Q. And you got this letter from him?

A. Yes, in answer to my letter; my letter was dated the 17th of October, and his is dated the 19th of October; the following is a copy of his letter to me:

## STATE OF NEW YORK:

BANK DEPARTMENT,  
ALBANY, *October 19, 1874.* }

S. P. BELLAMY, ESQ., *Brooklyn, N. Y. :*

DEAR SIR — Your favor of 17th inst. is received, and duly considered.

I have this day addressed an official letter to the president of the bank for the consideration of the board of trustees. I respectfully direct your attention, and those you represent, to the same, for my views on the matter under consideration.

Very truly yours,

D. C. ELLIS,  
*Superintendent.*

Q. Have you a copy of the letter you wrote to him which drew forth this answer?

A. No, sir, I don't think I have.

Q. Have you any recollection of its contents?

A. No, I don't recollect definitely.

Q. Did you write to him more than once?

A. Yes, I wrote to him two or three times.

Q. When did you write to him?

A. About that time.

Q. After receiving this letter of October 19, did you write to him?

A. My impression is that I wrote to him a month or so after that, at the request of my client; that I did write him two or three times I remember, but exactly when I don't know.

Q. Have you been able to find copies of the letters?

A. No, I have no copies of the letters at all.

Q. Do you know what purport of the letters to him was?

A. It was to inquire of him what was going to be done.

Q. Did you get any answer from him?

A. That is the only letter I ever received.

Q. After receiving that answer you wrote to him two or three times?

A. I wrote to him two or three times, and certainly after receiving that letter.

Q. But you received no communication from him?

A. That is the only communication I ever received from him.

Q. Out of three or four letters?

A. Yes, two or three letters, whatever it may be? I don't know the number of the letters.

Q. Did you call his attention particularly to these southern securities?

A. It was a subject of conversation between us.

By Mr. CHAPMAN :

Q. In regard to this number of letters, I do not understand you to be positive as to whether it is two or three or four ?

A. Yes, I know that it is more than two ; I feel as confident of that as I do of any thing that I don't definitely remember.

Q. You have no memorandum ?

A. I have no memorandum.

Q. Of either of them ?

A. I have no memorandum of any of them at all.

Q. You were a lawyer in practice ?

A. Yes, sir.

Q. A pretty extensive practice ?

A. Somewhat, yes, sir.

Q. That is a thing that you might be mistaken about — three or four years ago ; is it not — as to whether it was three or four or even two letters ; it is true, is it not, that you might be mistaken in regard to the number ?

A. I suppose that is possible ; I don't think, however, that I am mistaken.

Q. In giving your opinion that there were three or four, you give that as your best opinion that there were more than two ?

A. Yes, sir.

Q. That is all you can say about it ?

A. That is all I can say about it.

Q. After you drew up this paper that you showed to Mr. Ellis and which has been introduced in evidence, what did you do with it first ?

A. I first took it to the attorney-general.

Q. Who did you see at the attorney-general's office ?

A. I saw Mr. Fairchild, the present attorney-general.

Q. You did not see Mr. Pratt, the then attorney-general ?

A. No ; he was not in the city at the time, they said.

Q. Did Mr. Fairchild decline to act upon the papers ?

A. Mr. Fairchild said he had every confidence in Mr. Ellis, and thought it was proper I should see him first.

Q. And that your action should come through his department first ?

A. That is the idea.

Q. He had every confidence in Mr. Ellis ?

A. That is what he said.

Q. You then went to Mr. Ellis ?

A. Yes ; the next day.

Q. Taking the paper along with you ?

A. Yes ; the next day I saw Mr. Ellis.

Q. The paper is not directed to Mr. Ellis, in any way ?

A. It is a summons and complaint.

Q. In an action which you proposed to have commenced?

A. That is the idea.

Q. It was made up with a view of having the attorney-general commence an action upon those papers?

A. Certainly.

Q. And you discovered, after reaching Albany, that the attorney-general could not act on those papers?

A. No; I discovered that he *would* not.

Q. You were there as attorney for your clients?

A. Certainly; I was there representing the trustees of this bank.

Q. A report of the company of July 1, or January, was brought out by Mr. Ellis for comparison with this?

A. There were several reports brought out.

Q. And you and he sat down there and compared the items of these reports with the items appearing in the complaint?

A. Yes, sir.

Q. The points of difference seemed to be mainly these Southern securities?

A. Yes, I think they were, undoubtedly.

Q. And that difference depended upon the market value to be placed on these securities?

A. Yes, sir.

Q. In your papers the market value was claimed to be a certain amount, while in the reports furnished by the company they were given at a higher figure?

A. Yes, sir.

Q. A different figure?

A. Yes, a much higher figure; but my figures were taken from the quotations of the securities.

Q. There were some securities that had no quotation at that time; there were no public sales, were there?

A. That I don't know, I am sure.

Q. Did you have any quotations of the Alabama bonds?

A. Mr. Gregory gave me quotations that he had made; I think there were quotations of most of the stocks.

Q. Those were quotations not from printed papers?

A. Most of them I think were.

Q. But some from figures Mr. Gregory gave you?

A. Yes, I think so; the stocks were quoted.

Q. Mr. Ellis did not manifest any hesitation in coming down and making an examination of the bank, did he?

A. No, sir.

By Mr. McKEON:

Q. You do not know whether he made any examination, do you?

A. I don't know whether he made any examination.

By Mr. CHAPMAN:

Q. He did not exhibit any hesitation when you talked with him?

A. No; he said he would come down.

Q. Did not Mr. Ellis suggest the idea of coming down with you?

A. No; I don't think he did; I am quite confident that he spoke of coming down later; I said we were very anxious to have him come down.

Q. He did, in fact, after you had this discussion together, come down with you on the return train or boat?

A. Yes, on the boat that night.

Q. And you have reason to believe that he got his examiner, and they went there to the bank and they went on with the examination?

A. I don't know any thing about it.

Q. You have reason to believe that from information that you got from your clients?

A. That I don't know; I think very likely he did.

Q. During this conversation with Mr. Ellis he remarked something about his not approving of putting the company in the hands of a receiver unless it was necessary; this was after the panic of 1873, of course?

A. This was in 1874.

Q. And the stringency of the money market was a subject of conversation there between you; the bad time to put it in the hands of a receiver, and the effect upon other corporations of the same kind?

A. Yes, I think so; very likely.

Q. No indication on his part that he was not willing, and indeed that he did not want to do his duty, was there?

A. Oh, no.

Q. You did not know the fact that Mr. Floyd and Mr. Gregory had given three different values to Mr. Ellis?

A. I don't know any thing that happened when I was not there.

Q. \$115,000 deficiency in this statement, \$201,000 deficiency in another statement, and 181,000 in another statement, giving the condition of the company on the first day of July, 1874; you did not know any thing about that?

A. I doubt whether they made any such statement; I don't know any thing about it.

Mr. McKeon offers in evidence section 6 and 7 of the act of incorporation of the Mechanics and Traders' Savings Institution.

[Objected to. Objection overruled.]

The following is a copy of the sections alluded to:

“ 6. The general business and object of the corporation hereby created shall be to receive on deposit such sums as may be from time to time offered therefor by tradesmen, clerks, merchants, laborers, miners, servants and others, in such sums and on such terms as are allowed by this act, for the purpose of being invested in government securities or any public stock, created under and by virtue of any law of the United States or of this State, or in any stocks or bonds of any city authorized to be issued by the legislature of this State, and also to loan any money upon bonds, secured by mortgages or unincumbered real estate situate in either of the cities of New York, Brooklyn or Williamsburgh, worth, at least, double the amount loaned thereon, or in such other manner as is authorized by this act for the use, interest and advantage of the said depositors and their legal representatives. In all cases of loans upon real estate, a sufficient bond or other satisfactory personal security shall be required of the borrower, and all expenses of searches, examinations, and certificates of title, and of drawing, perfecting and recording such papers shall be paid by such borrower. And the said corporation shall receive as deposits from the persons of the descriptions above mentioned, all sums of money which may be offered for the purpose of being invested as aforesaid, but not to exceed the sum of \$5,000 from any individual, which shall as soon as practicable be invested accordingly, and shall be repaid to such depositor when required, at such times, with such interest, and under such regulations as the board of trustees shall from time to time prescribe, which regulations shall be put in some public and conspicuous place in the room where the business of said corporation shall be transacted, but shall not be altered so as to affect any deposit previously made. No president, vice-president, trustee, officer or servant of said corporation shall, directly or indirectly, borrow the funds of said corporation, or its deposits, or in any manner use the same or any part thereof, except to pay necessary expenses, under the direction of said board of trustees. All certificates or other evidences of deposit, made by the proper officer of such corporation, shall be as binding on the corporation as if they were made under the common seal. It shall be the duty of the trustees of the said corporation to regulate the rate of interest to be allowed to the depositors, so that they shall receive as nearly as may be a ratable proportion of all the profits of said corporation, after deducting all necessary expenses; and it shall be the duty of the trustees of said corporation to invest, as soon as practicable, in public stocks or public securities, or in bonds and mortgages, as provided for in this act, all sums received by them beyond an available fund of not exceeding \$100,000, or not ex-



ceeding one-third of the total amount of deposits with said institution at the discretion of the said trustees, which they may keep to meet the current payments of said corporation, and which may by them be kept on deposit on interest, or otherwise, in such available form as the trustees may direct ; provided that a greater amount than \$10,000 of such available funds shall not be deposited to the credit of the corporation hereby created, unless interest thereon shall be paid by the bank in which such funds are deposited.

7. The board of trustees of the said corporation shall have power from time to time to make, constitute, ordain and establish such by-laws, rules and regulations as they shall judge proper for the election of their officers, for prescribing their respective functions and the mode of discharging the same, for the regulation of the times of meetings of the officers and trustees, and generally for transacting, managing and directing the affairs of the corporation ; provided such by-laws, rules and regulations are not repugnant to this act, to the constitution or laws of this State or of the United States.

Counsel for the receiver offers in evidence section one of an act relative to savings banks or institutions for savings in the city and county of New York and the county of Kings, passed April 15, 1853, as follows :

SECTION 1. It shall be lawful for the several savings banks or institutions for savings in the city and county of New York and county of Kings, now chartered, or which may be hereafter chartered, in addition to the powers granted by their respective acts of incorporation, to loan the moneys which they have received or shall hereafter receive on deposit or the accumulation thereof, on purchase of any stock or securities, for the redemption or payment of which the faith of any State in the Union shall be pledged, or the public debt or stock of any incorporated city, county or town in this State which have been authorized by the legislature of this State to issue such stock, provided that the cash value of such stock or securities shall, at the time of making such investment, be at or above its par value, and such loans, so made, shall not exceed in amount ninety per cent of the par value of such stock or securities. Should the stocks or securities above mentioned depreciate in value so that the amount loaned thereon shall exceed ninety per cent of its par value, it shall be the duty of the directors or trustees of any savings bank or institution for savings, to require the immediate payment of any loan made by them thereon, or additional security therefor, so that at all times the amount so loaned shall be at least ten per cent less than the par value of such stock or securities.

*John B. Manning, a witness, being duly sworn, testifies:*

By Mr. McKEON:

Q. What is your business?

A. I am a banker and broker.

Q. In the city of New York?

A. In the city of New York.

Q. What were you in the year 1874?

A. I was in the same business.

Q. Have you been acquainted with the securities known as the Alabama, South Carolina and North Carolina bonds, issued by those several States?

A. I have.

Q. And are now?

A. I am; yes, sir.

Q. Did you know about them in the year 1874?

A. I did.

Q. Do you know how many classes of bonds there were known in the market here of the South Carolina bonds?

A. In what time?

Q. In the fall of 1874?

A. Yes, sir; there were three classes of those bonds known and dealt in at our New York Stock Exchange in that year.

Q. Of the South Carolina bonds?

A. Yes, sir.

Q. What were they known as?

A. They were known as the old South Carolinas, the January and Julys, and the Non-fundables.

Q. Were they not known as Fundable and Non-fundable?

A. The two first classes were of the fundable kind.

Q. And the last non-fundable?

A. The latter issue were non-fundable or repudiated bonds.

Q. Can you tell me what the value of those stocks was in the fall of 1874?

A. What month?

Q. September and October?

A. I have taken a memorandum from the quotations of the New York Stock Exchange and it is briefly this, that the South Carolina, January and Julys were quoted at 17, and the Non-fundables, or the repudiated issues, quoted at 6.

By the CHAIRMAN:

Q. Do these stock quotations mean that there were sales at those prices, or not?

A. There were sales at those prices, and that was the best bid at the time; the most that could be obtained for them.

By Senator ST. JOHN:

Q. The old South Carolinas—how much were those?

A. The old South Carolinas, the old ante-war bonds, were quoted at 20 at that time.

Q. Then you give the price of the three classes, the old South Carolinas at 20, the January and Julys at 17, and the Non-fundables '6?

A. Yes, sir.

By Mr. McKEON:

Q. Were the values of these classes published daily in the N. Y. Stock Exchange?

A. Those were recorded daily; when there were not sales the bidding prices were recorded.

Q. They were published in the price list of the N. Y. Stock Exchange?

A. Yes, sir, every day; twice a day.

Q. Were they also in the newspapers?

A. The newspapers generally copy those things from the registered list issued by the N. Y. Stock Exchange.

By Mr. CHAPMAN:

Q. What date were those that you have been giving?

A. October 2d; we can get at the prices most any day.

By Mr. McKEON:

Q. Give them on the 30th of September?

A. I will merely say that the fluctuations in those stocks or those bonds would not vary much in the course of one, two or three days; they were not an active stock in which large transactions were recorded daily, and they would not materially differ in the price from the date I have given you; I guess I can turn to the list [referring to the quotation of September 30th]: I find the only difference is in the Non-fundables; on that day they were quoted at  $6\frac{1}{2}$ , while on October 2d they are quoted at 6; the Fundables were 17, and the old bonds 20.

Q. Turn to October 7th?

A. There is an advance in the January and Julys; they are quoted at  $17\frac{1}{2}$ , and the Non-fundables at  $6\frac{3}{4}$ , and the ante-war bonds, or the old bonds, are 24.

Q. What are the classes of the bonds of North Carolina?

A. The North Carolina bonds that were dealt in and known on the N. Y. Stock Exchange are thirteen different issues; in this report

[referring to Mr. Best's printed report, page 17] I notice there are five different issues of bonds; first the old issue or anti-war bonds are quoted on October 7th at  $20\frac{1}{4}$ ; the two first items here come within the same price,  $20\frac{1}{4}$ ; then the North Carolina railroad bonds of the issue of 1854 are quoted at 42; the third issue of 1866 are quoted at 15; the issue of 1868 are quoted at 14; the last four items here would be put in the same category, and all known as new bonds; these would be quoted at  $12\frac{1}{2}$ .

Q. Now, I will take the Alabama bonds; can you give us the price of the Montgomery and Eufala, Alabama, bonds in 1874, October 7th?

A. I have never seen a recorded sale of those bonds but once; I mean the sales of the Stock Exchange; I could not exactly say what date it was; it was a sale at 90.

Q. Had they any sale at all in October, 1874?

A. There was no market for them at that time; they were not salable in the market; the regular Alabama — 45 was bid for them.

Q. What was the price, on October 7th, of the regular Alabamas?

A. There was no quotation at that date; those bonds were not actively dealt in.

Q. Now, about the Tennessee bonds; was there more than one class of those?

A. On what date?

Q. October 7th?

A. On October 7th I find recorded bids for the Tennessee bonds.

Q. Take first the issue of January 1st, 1866; see what the price of those is?

A. Those Tennessee bonds I would say a fair quotation at that date would be 54.

Q. What is the next kind; are they all one kind?

A. There is no distinction and no difference in the prices at that date.

By Mr. CHAPMAN:

Q. That is, of all four of these items that you have before you on that page?

A. Yes, sir; that would cover the whole thing; they would not materially differ either way.

By Mr. McKEON:

Q. Were not all these prices you have been speaking of advertised in the list of the public Stock Exchange, and in the newspapers generally?

A. The sales and the purchases and the bidding of those bonds are

recorded every day on the registered list, issued by the N. Y. Stock Exchange.

Q. From what have you given your statements as to the values and prices of these stocks in the present examination?

A. I have given it from the registered stock list, issued by the N. Y. Stock Exchange.

Q. And which is before you?

A. And which is before me; I preserve a copy of those in my office for reference.

Q. It is the printed list published by the N. Y. Stock Exchange, twice a day, isn't it?

A. 'Twice a day.

Q. And distributed in Wall street?

A. Distributed amongst the members of the New York Stock Exchange, and also amongst outsiders and the newspapers to copy from when applied for.

By Senator WELLMAN :

Q. Had the State ever paid any interest at all upon the Alabama railroad bonds?

A. From my knowledge the State never did pay on those bonds.

Q. I ask you whether the interest was ever paid?

A. My opinion and belief is that the State never paid interest.

Q. Did any of the other parties ever pay it? was the interest ever paid?

A. I believe and am of the opinion that the railroad furnished the money to pay the interest.

Q. Was the interest actually paid at any time after their issue?

A. Yes, sir; the interest was paid.

Q. Up to what time? when was it repudiated for the first time?

A. Those bonds were issued in 1870, but they had not passed out of the hands of the railroad company; they were not put on the market, I think, until 1871 or 1872, and my belief is that there were two coupons paid on them; the railroad company that they were issued to held them in their own hands, and evidently went to work and cut off the coupons; I know when they passed them out of their own hands or sold them, they furnished the money to pay the interest.

Q. Can you tell at what time the interest first ceased to be paid on these bonds?

A. My impression is that they ceased in September, 1873.

Q. That is, that was the last payment of interest?

A. The last payment was March, 1873.

Q. That is simply your impression? if we should bring some person

on to the stand here to prove that he received interest in March, 1874, you would think you were mistaken ?

A. No, I am sure I am not ; I know I went to the office where the interest was to be paid, or where they announced it would be paid, and presented some coupons, and they were not ready or did not have the money to pay it.

Q. When was that ?

A. It was in March, 1873, but they paid afterward.

Q. So that the March interest was paid ?

A. That is to the best of my recollection.

Q. Was that paid by the State or the railroad company ?

A. When I go to their office, I do not ask who furnishes the money.

By Mr. CHAPMAN :

Q. Then you don't know whether the railroad company furnished it or whether the State furnished it ?

A. No, sir ; I do not.

Q. There were certain of the South Carolina bonds, I understand you, that were repudiated at a certain time ; when was that they first refused to pay interest on them, or principal ?

A. They refused to pay interest in January, 1872.

Q. That is some of these bonds that are specified here ?

A. Yes, sir ; the whole of that issue that I examined for Mr. Best, as receiver.

Q. The Non-fundables ?

A. The Non-fundables and the others also ; they all ceased to pay interest at the same time, which was January, 1872 ; then, in 1873, the legislature had met and passed a funding bill, and in June, 1874, we ascertained from the capitol at Columbia that some of those bonds were repudiated.

Q. Some of them ?

A. Which was a majority of them ; there were 141,000 repudiated.

Q. When was your attention first called to the value of these stocks ?

A. I don't remember the date ; I think it was when Mr. Best took possession of the bank ; he sent down a messenger to ascertain and get the values, and I furnished him the prices at the time.

Q. Did you furnish him the prices in 1874 that you have given here ?

A. Not 1874 ; but I did furnish him the prices, I think, in 1876.

Q. Did you furnish him the prices as of 1874 ?

A. No ; I believe not ; I have copies of the letters here ; I furnished him the prices December 30, 1875.

Q. These stocks to which you have alluded vary in price, between the dates of October 1, 1874, and January 1, 1875; some days higher and some days lower?

A. They vary very little; half a cent or so.

Q. Were there any other stocks on your stock register that varied, during those times?

A. Yes, sir; they all varied; all governed by demand and supply.

Q. Take the municipal bonds from October, 1874, to January 1st, 1875, was that an increase in the value of those bonds?

A. Municipal bonds that are dealt in at our stock exchange?

Q. Yes?

A. They generally increase as the interest accumulates, say about half a cent a month.

Q. I am not asking you all that; I am asking you whether you know that they did increase from October 1st to January 1st, 1875?

A. If you will allow me to refer to my register.

Q. Certainly; refer to any thing?

A. What particular bonds do you refer to?

Q. Well, the Brooklyn park bonds?

A. What dates?

Q. From October 1st down to the latter part of December, 1874?

A. I find the Brooklyn city bonds, water loans; they are put at 95½ the first of October, and about 99 the 28th of December.

By Senator ST. JOHN:

Q. How much accumulated interest between that time?

A. Three months; 1½ per cent.

By Mr. CHAPMAN:

Q. Those are the Brooklyn park?

A. Those are the Brooklyn water loan; there is no quotation for the Brooklyn park bonds.

Q. Were Rochester bonds on the stock board at that time?

A. No, sir; those are never on the stock list.

Q. Were Buffalo bonds on the stock board?

A. No.

Q. They did not have any market value?

A. Oh, yes.

Q. They were not salable at the stock board?

A. They are not dealt in or called on; they are never dealt in on the stock exchange; they are not on the list; they are not admitted.

Q. These Alabamas were not admitted there?

A. Oh, yes, they were admitted; they are called every day.

Q. Where there are no sales?

A. No sales.

Q. Called every day?

A. They are called every day; no quotations made for them; no buyers.

*John F. James*, a witness, being duly sworn, testified as follows :

By Mr. McKEON :

Q. What is your occupation?

A. Real estate.

Q. Where do you live?

A. 306 Schemmerhorn street, Brooklyn.

Q. Are you acquainted with the value of real estate in Brooklyn?

A. Yes, sir.

Q. How long have you been engaged in the business?

A. Twelve years.

Q. And you have been in the habit of buying and selling real estate?

A. Yes, sir.

Q. Do you know the property known as 30 and 32 President street, Brooklyn?

A. Yes, sir.

Q. Known as property belonging to the Mechanics and Traders' Savings Bank?

A. Yes, sir.

Q. Will you give the value of those two pieces of property in the fall of 1874, in October?

A. The piece on the corner of President and Van Brunt streets—I should say about \$14,000, and the other one about \$8,000.

Q. Is it next door to the corner?

A. Yes, sir.

Q. Did not you sell that property lately?

A. I did, sir, at public auction.

Q. What did the first piece bring?

[Objected to. Question withdrawn.]

By Mr. CHAPMAN :

Q. There is a building that was erected as a bank building?

A. Yes, sir.

Q. And another building?

A. A three story brown stone next to it, and a stable in the rear.

Q. Do you take that in connection with the brown stone front?

A. Yes, sir; it is all on the 100 feet in depth.

Q. The cost of those buildings was very much more than that, wasn't it?

A. Yes, sir; it was unfortunately put in a wrong location; prop-



erty of the same kind put in another location would have been worth a great deal more money, but that is right down in the tenement neighborhood.

Q. About what would be the cost of that brown stone building in 1870 or 1871?

A. Probably \$8,500 to build it.

Q. Just the building alone, saying nothing about the land?

A. Yes, sir.

Q. And the bank building?

A. I have not the least doubt but what it would cost \$20,000 to build it.

Q. Would not it cost \$30,000?

A. No, sir; I don't think it would; but I should think it would cost \$20,000.

Q. The building alone?

A. Yes, sir; it is a very well built building; one of the best, probably, in the city; but unfortunately it is in a wrong location, and used now as a tenement.

Q. Mr. Jackson was here this morning, and he says real estate commenced depreciating along about the latter part of 1874 or the forepart of 1875; would that be your opinion?

A. Yes, sir; after 1872.

Q. Your idea would be that it commenced depreciating in 1873?

A. Yes, sir; you might take a part of 1872; after the spring of 1872.

Q. Brooklyn felt it the first of all?

A. I would not like to say that; I don't think it felt it any quicker than other places; of course I felt it in Brooklyn, for the reason that I was doing business there.

Q. It has been constantly falling ever since?

A. Yes, sir.

Q. Depreciating in value?

A. Yes, sir.

Q. The depreciation has been from 40 to 50 per cent?

A. Fully 33.

Q. Of course as to what the value of those buildings may be is purely a matter of opinion, isn't it; one man may have an opinion that the value is higher than another?

A. It is only what we can sell the property for; that is the way we figure on real estate.

Q. This is merely your opinion in regard to it?

A. Yes, sir; if you asked a builder to estimate it would be a different matter—if you asked him what it would cost to put a building there.

By Mr. McKEON:

Q. You don't know when this house was built at all?

A. I think it was, as near as I can remember, some 13 or 14 years ago; it may be a little less than that; I am not positive about that.

*William J. Best*, recalled.

By Mr. McKEON:

Q. Did you examine into the condition of the bank immediately after taking upon yourself the office of receiver?

A. Yes, sir.

Q. Can you tell me what the deficiency was in this bank when you became receiver?

[Objected to. The committee decide that, as the time when the affairs of this bank went into the receiver's hands was subsequent to the time when Mr. Ellis handed over the whole matter to the attorney-general, the question is not proper.]

Q. Can you give me the number of depositors in this bank?

A. At the present time?

Q. When you came in as receiver?

A. About 3,300, I believe; in that neighborhood.

Q. What percentage have you paid to those depositors?

A. Sixty-five cents on the dollar.

Q. Have you any assets remaining in your hands?

A. Yes, sir.

Q. What do they consist of?

A. I have some bonds and mortgages in process of foreclosure.

By the CHAIRMAN:

Q. What amount of bonds and mortgages?

A. The exact amount I could not state; I can give it to you exactly from the books.

Q. About the amount?

A. I can only guess at it; it will be from fifty to sixty thousand dollars, I should say, on bonds and mortgages.

Q. That you regard as collectible?

A. I won't say that; they are in process of foreclosure.

Q. Any other assets than those?

A. The real estate that has recently been sold, a portion of which has not yet been paid for.

By Mr. CHAPMAN:

Q. Which of these pieces of real estate have you got?

A. I have four pieces of real estate which have not been disposed of, as follows: the bank building; 227 East 45th street; 30 President street, Brooklyn, and 32 President street, Brooklyn.

Q. You have got all the real estate then that the company had in 1874?

A. Yes, sir; I have all that they had in 1874.

By Mr. McKEON :

Q. Now in regard to the personal property; you have got these bonds of North Carolina?

A. I have 113,600 of North Carolina bonds.

Q. What kind?

A. According to the statement there; the first bond I sold, because it was more valuable than the rest.

Q. Are they funded?

A. These are regular North Carolina bonds, all recognized, all except the first bond, I believe, or the second; there is one bond of a thousand dollars that I sold.

Q. You have got all?

A. All the North Carolina with that exception.

Q. Then the South Carolinas?

A. All except 14,000; I have 141,000 of South Carolinas; those are the Non-fundables.

Q. Then the Alabama?

A. 166,000.

Q. How much of the Tennessee?

A. None; I sold the Tennessees; then there are the fixtures and carpets, and the office furniture.

Q. Have you sold the safe?

A. The safes are inside the building, but I think I can sell those; they will be sold next week.

By Mr. WELLMAN :

Q. Any cash on hand?

A. The cash is very little; not any more than the expenses; for the second dividend, I got all the money together that I could get; the cash now available on the new dividend is trifling, a few thousand dollars, as we have been making but few collections.

*Daniel A. Moran*, recalled.

By Mr. McKEON :

Q. Will you present a list of the stocks and their values in September and October, 1874?

A. The following is a list :

"NEW YORK, Oct, 13th, 1876.

N. Y. City	6's, due 1875-'79.....	95	and interest.
N. Y. City	6's, due 1890.....	95	"
N. Y. City	7's, due 1900.....	103	"
Brooklyn	7's, due 1915.....	102	"
		100	
Buffalo	7's, due 1890.....	92	"
		100	
Rochester	7's, due 1903.....	99	"
Oswego	7's, due 1888.....	98	"
Yonkers	7's, due 1890.....	98	"
Brooklyn	7's, due 1885.....	100	"
Morrisania	7's, due 1890.....	96	"
Westchester	7's, due 1890.....	96	"

*Sept. & Oct. '74.*

The above quotations are those for *all* July 1st, 1874.

D. A. MORAN."

By Mr. CHAPMAN :

Q. The values in July of the Rochesters and Buffalos was 99 as first written in your statement ?

A. Yes, sir.

Q. And the only changes you have quoted on that paper have been an appreciation of bonds in two instances, September and October ?

A. Yes, sir.

Q. Those are what bonds ?

A. The Buffalo bonds and the Rochester bonds.

Q. They in September and October were sold at par ?

A. Yes, sir.

Q. Do those give the buying or selling prices ?

A. These give about the bidding prices. For instance, these were taken in September and October, or it might have been on the last day of October; they are not transactions made every day; sometimes before we have a transaction in Buffalo bonds three or four days might elapse; may be a week; then again we might go on two or three days at a time and have transactions.

Q. Those figures merely indicate transactions when you were able to get at them ?

A. Yes, sir.

Q. When there was a sale made and a record of it ?

A. Yes, sir.

Q. Have you a knowledge of the fact that in December following, those municipal bonds had appreciated in value, that is in December, 1874 ?

A. I have not a positive knowledge, but would naturally suppose they had appreciated.

Q. What is the difference between your buying price and your selling price?

A. Sometimes large and sometimes small; sometimes a big difference; the average is from 1 to 5 per cent.

Q. These are generally bidding prices?

A. Yes, sir.

Q. Suppose a man goes to you to buy certain of these municipal bonds, would you give him the same price as you would if he came to you to have you sell them?

A. Certainly not.

Q. The difference, you say, ranges from 1 to 5 per cent?

A. Yes, sir.

By Mr. McKEON:

Q. Do you think there would be a difference of 5 per cent with any of these bonds mentioned in this list?

A. In what way?

Q. He asked you if there was a difference, and you answered, that there was from 1 to 5 per cent between the buying and selling price?

A. On some of them there would be, and on others there would be a difference of perhaps one-fourth per cent.

By Senator ST. JOHN:

Q. Is not this the fact, that in all city stocks and government bonds, and State stocks that are current in the market, the dealings are generally executed at one-quarter or one-half per cent?

A. Where there is no quotation—

Q. I do not speak of where there is no quotation; I speak of bonds that are quoted every day on the market?

A. No, sir; we buy them as cheap as we can and sell them as dear as we can.

By Mr. McKEON:

Q. Of all the stocks on this list, what stocks have appreciated in value?

[Objected to. Question withdrawn.]

Q. There has been an increase in the value of those bonds?

A. Yes, sir.

*William J. Best*, recalled:

By Mr. McKEON:

Q. Have you a minute book of the bank?

A. Yes, sir [producing a book].

Mr. McKEON offers in evidence the minutes, commencing April 13, 1874.

The committee state that all portions of the minutes bearing upon the question now before this committee may be received in evidence.

Adjourned to *April 30*, at 10 o'clock A. M.

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NEW YORK, *April 30*, 1877.

The committee met pursuant to adjournment.

Present — Senators COLEMAN (chairman), WELLMAN and ST. JOHN.

*Leopold Seldner*, witness called on behalf of the bank superintendent, being duly sworn, testifies:

By Mr. CHAPMAN:

Q. Where do you reside?

A. I live at No. 157 One Hundred and Sixteenth street.

Q. What is your occupation?

A. Real estate agent.

Q. How long have you been such?

A. Since 1870.

Q. Are you acquainted with the Mechanics and Traders' Bank building?

A. I know the building.

Q. Are you acquainted pretty extensively with the value of real estate in that vicinity?

A. I have been living around in that neighborhood for the last seven years.

Q. What, in your opinion, was the value of that bank building in September and October, 1874?

A. You mean the ground and the building?

Q. Yes?

A. I should think it was worth \$100,000, \$105,000 or \$210,000.

*Cross-examination by Mr. McKEON:*

Q. On what basis do you make that calculation — on the rent it would yield?

A. No, sir; I make the calculation on the ground and on the building.

Q. How deep is the lot?

A. I think the lot is about 75 feet; I don't know exactly.

Q. You have not measured it?

A. No, sir; only passed it.

Q. How wide is the lot?

A. I think it is about 21 to 23 feet wide.

Q. Have you measured it?

A. I have not.

Q. Have you been in the building?

A. I have been inside; I passed by there every day; my office was 243, which was the next corner to the German Exchange Bank; and I have left there two years, and I am now at 156 Bond street.

Q. Can you tell me the width of the lot?

A. I think 21 or 23 feet.

Q. You have not measured it?

A. No, sir.

Q. Do you know what the building cost?

A. I think, at that time — to go back three or four years — it was worth from \$35,000 to \$40,000.

Q. Where was there a lot bought?

A. In the Bowery.

Q. Between what streets?

A. If you commence at Canal street, all the way up, I may say, to Third street, I offered for a corner lot, at Third street, \$65,000, 21 feet, I guess, by 100.

Q. When was that?

A. I guess that was about four years ago.

Q. 1873?

A. Yes, sir.

Q. Do you know of any lots that were sold on that block within the last five years?

A. I know some property that has been sold.

Q. Do you know of any house and lot that has been sold?

A. Building lots — no, sir.

Q. Do you know of any on the opposite side of the street?

A. I know of a house and lot being sold.

Q. On the opposite block?

A. Between Bleecker street and the next street.

Q. Do you know the name of the street?

A. I know it is Bowery; it is from Bleecker street to the next street; I think it is Houston street.

Q. Do you know the street which is south of the bank?

A. I do.

Q. What is the street south of the bank?

A. First comes Houston street, and then First street.

Q. What is the next street?

A. Second street.

Q. On the opposite side of the way?

A. Then comes Stanton street.

Q. What is on the opposite side of the street?

A. Bleecker street.

Q. What is the street below it?

A. I guess after Bleecker street comes Prince street or Spring?

Q. Do you know whether it is Spring or Houston; give me the names of the streets from Broome street upon the west side?

A. First comes Second street.

Q. On the west side?

A. Broome, and then comes Prince, then comes Spring, then comes Houston, and then Bleecker, and then Bond.

Q. Between Prince street and Bleecker, can you tell me of any sale there within the last five years?

A. I guess two or three years ago there were sales made; Mr. Irving sold his building there, I believe.

Q. When was it sold?

A. I guess it was offered three years ago; I am not sure.

Q. Can you fix any thing about the date?

A. Well, may be three years, I guess; I am not sure of it.

Q. Do you know any thing about a sale there?

A. I do.

Q. You are not sure of it?

A. I am not sure of the time of the year.

Q. Have you any memorandum of your own?

A. If I sold a piece?

Q. Have you any books of sale?

A. Yes, sir.

Q. Will your books show any sale?

A. I didn't make that sale myself.

Q. Do you keep any memorandum of sales in the neighborhood there?

A. No, sir; we keep the real estate record there.

Q. You don't keep any thing else there?

A. Except what we sell ourselves.

Q. When did real estate begin to fall?

A. Real estate commenced to fall from about 1874 to 1875; in the spring of 1875.

Q. Not before that?



A. Not much before; I bought a house myself in January, 1875, for \$30,000, and I cannot get to-day \$16,000 for it.

Q. Can you give me any sales on which you make your calculation of \$100,000 for that in 1874?

A. A gentleman pretty nearly opposite — I am not sure, but anyhow, in that neighborhood — Robert Irving, sold his house to a Mr. Brown, in Staten Island, and, if I am not mistaken, he got \$95,000 for it.

Q. How big a lot?

A. A 25-foot lot, I guess.

Q. What kind of a house was on it?

A. I think it was a four story brick building.

Q. Where are you carrying on business now?

A. 56 Bond street, near the Bond Street Savings Bank.

By Mr. CHAPMAN:

Q. How long did you live in the immediate vicinity of this bank?

A. I have been living there from 1870 to 1875.

Q. About how near the bank?

A. On the corner of Stanton street is the German Exchange Bank, and I have been living next to that.

Q. How near is that to the Mechanics and Traders' Bank?

A. I think three houses.

A. *A. Gould*, a witness called on behalf of the bank superintendent, being duly sworn, testified as follows:

By Mr. CHAPMAN:

Q. Where do you reside?

A. 196 Prospect place, Brooklyn.

Q. What is your business?

A. Real estate business now.

Q. How long have you been engaged in that business?

A. Between three and four years.

Q. Are you acquainted with the property located at the corner of President street and Van Brunt street?

A. I know of the property.

Q. Built as a bank building?

A. Yes, sir.

Q. And another building connected with it?

A. Yes, sir; the house is brown stone front; the bank building is brick.

Q. How many stories high is the brick building?

A. Three stories and French roof.

Q. How many stories high is the brown stone building?

A. Three stories and high stoop.

Q. Are you acquainted with the value of real estate in that locality?

A. I am somewhat.

Q. Acquainted generally with the value of real estate in Brooklyn?

A. Yes, sir.

Q. What was the value of that property in September and October, 1874, in your opinion?

A. My opinion is, it was worth about \$30,000 then. .

[Objected to by Mr. McKeon.]

Q. What time, relative to 1874, were you engaged in the real estate business?

A. I went into it in 1872.

Q. What do you say was the value of that property?

A. I should think it was worth then \$30,000.

Q. Both pieces?

A. Both pieces; yes, sir.

Q. It cost much more, doubtless?

A. I should judge so, from the appearance of it.

*Cross-examined by Mr. McKEON:*

Q. Did you ever buy or sell any of the real estate in that neighborhood?

A. Not immediately in that neighborhood; no, sir.

Q. How near to it?

A. On Park place I have sold property.

Q. Half a mile from that?

A. Perhaps a mile from that locality, I should judge.

Q. When did you buy or sell that piece of property?

A. I think it was in 1872 I sold a brown-stone house there for \$60,000.

Q. Was that for yourself?

A. No, sir; for another party; I bought one for myself 1868, in that locality, or where I now reside.

Q. How far from this place do you reside?

A. About a mile, I should judge; it may be a trifle more.

Q. This place you bought a mile from President street — what did you pay for it?

A. I paid \$14,000.

Q. In 1868?

A. Yes, sir.

Q. And keep it still?

A. I keep it still.

Q. What is it worth to-day ?

A. I don't suppose I could sell it for fifty cents on the dollar.

Q. You could not sell it for \$10,000 ?

A. No, sir ; I don't know as I can get fifty cents on the dollar for it to-day ; I don't know that I can get any more than that, at the present time, for it.

Q. When did you go to President street ?

A. Saturday afternoon.

Q. You went specially to look at it ?

A. Yes, sir.

Q. Were you not very much impressed with the fine building that was there ?

A. I was not very much impressed, on account of the dilapidated state it was in, that is, the bank building particularly ; the other looks very well.

Q. Was it ever used as a bank ?

A. I could not say.

Q. Why do you call it a bank building ?

A. It was called so to me ; portion of it is used for some mission purpose.

Q. It never was used as a bank ?

A. I don't know that.

Q. Don't you know it was used for a private residence ?

A. No, I don't.

Q. What kind of a neighborhood is it ?

A. The neighborhood looks well enough.

Q. Any tenement houses around there ?

A. There are a great many tenement houses around there ; it is near a large sugar refinery.

Q. Don't that deteriorate the value of it ?

A. There are tenement buildings around there.

Q. Don't those two things take away from the value of that property ?

A. It does, in a measure.

Q. How much would you give for that property now ?

A. For the two, you mean ?

Q. Yes ?

A. If I had money, I should think they would be worth \$15,000 to-day.

Q. Do you know of any sale in that neighborhood in 1874 ?

A. No ; I don't think I do.

By Mr. CHAPMAN :

Q. You, at that time, were investigating in regard to the value of real estate around there, that came under your observation ?

A. Yes, sir.

Q. And you base your opinion on values, as of that date ?

A. Yes, sir.

By Mr. McKEON :

Q. Who sent you to examine that building ?

A. Mr. Payne.

*William Brinkerhoff*, a witness called on behalf of the bank superintendent, being duly sworn, testifies :

By Mr. CHAPMAN :

Q. Where do you reside ?

A. 105 East 61st street.

Q. What is your business ?

A. Real estate broker.

Q. How long have you been engaged in that business ?

A. 26 years, to-morrow.

Q. In the city of New York ?

A. Yes, sir.

Q. Are you acquainted with the Mechanics and Traders' Savings Bank building ?

A. Yes, sir.

Q. Were you acquainted with the value of property in that locality, in 1874 ?

A. Yes, sir.

Q. What, in your opinion, was the value of this property in September and October, 1874 ?

A. I should judge it was worth from \$100,000 to \$105,000.

*Cross-examined by Mr. McKEON :*

Q. On what basis do you make that calculation ?

A. On the value of property generally at the time, for the purpose for which the building was to be used, and the character of the building's location.

Q. What could it be used for.

A. For a bank building or insurance building ; any corporation of that kind.

Q. Have you gone and examined the property ?

A. Yes, sir.

Q. When ?

A. I was there on Saturday.

Q. At whose request ?

A. Charles E. Loew.

Q. Is Mr. Loew in any way connected with the building ?

A. No, sir.

Q. Who is Mr. Loew ?

A. He is president of the Eleventh Ward Savings Bank.

Q. Now connected with it ?

A. Yes, sir.

Q. What is the size of the lot ?

A. I should judge it was about 18 to 20 by 70 or 73, may be only 70 feet ; I didn't measure it.

Q. Did you go into the bank ?

A. Yes, sir.

Q. Where did you go ?

A. In the front door.

Q. Did you go up stairs ?

A. No, sir ; right on the first floor.

Q. You only went to look on the banking room ?

A. Yes, sir.

Q. And you found one floor ?

A. Yes, sir ; I have been in the building many times.

Q. But you have never been up stairs ?

A. No, sir.

Q. You don't know how high it is ?

A. Yes, sir.

Q. How many rooms are there in it ?

A. I know there is more than one story to it ; it is a banking building.

Q. Did you go down stairs and examine it ?

A. No, sir.

Q. Did you look at how it had been built ?

A. No, sir.

Q. Who would give \$100,000 for that building in 1874 — what could they use it for ?

A. For any building purposes, or insurance purposes, or commission and brokerage business — private banking.

Q. Do you know of any private bankers up there that pay a rent of \$10,000 a year ?

A. No, sir ; not in that locality.

Q. Don't you know the insurance companies — the Old Bowery and those companies — have places of their own ?

A. Yes, sir.

Q. Where were all the banks and all the insurance companies that were likely to want such a building?

A. That depends entirely on their class of business; the Bowery that you speak of has an office in the Butchers and Drovers' Bank building, corner of Bowery and Grand street.

Q. They have got their own building, have they not?

A. I don't know whether they own the building or not.

Q. You have been 26 years in the business?

A. Yes, sir.

Q. Did you know a man of the name of Hudson, connected with the Eighth National Bank?

A. I did.

Q. Was he in the real estate operations?

A. I don't know any thing about his real estate operations.

Q. Were you in any operations with him?

A. I was connected with him in some operations.

Q. Were you not with him in speculations in real estate on Lexington avenue?

A. Yes, sir.

Q. Did they turn out badly, or good?

A. They turned out badly..

Q. And involved you very much?

A. Yes, sir.

By Mr. CHAPMAN :

Q. Have you known any one else who invested in real estate, along 1874 and 1875, in New York city, that turned out badly?

A. Yes, sir; a great number of gentlemen.

Q. You have known of persons of pretty good judgment that invested in real estate before 1874 that turned out badly?

A. Yes, sir.

By Mr. McKEON:

Q. Before 1871 you have known of the same thing, have you not?

A. Yes, sir.

Q. This bank building was worth more to a company occupying it at the time, in possession of it, and using it as such, than it was to put upon the market, was it not?

A. Yes, sir.

Q. And, to the company occupying it in September and October, 1874, it would be worth more than the \$100,000 or \$105,000, which you have mentioned?

A. I should consider it would be; yes, sir.

Q. What you have given is the market value at that time, in your opinion ?

A. Yes, sir.

By Mr. McKEON :

Q. Is Mr. Charles E. Loew, of whom you speak, the county clerk ?

A. He was the county clerk.

*William J. Best*, recalled on behalf of the prosecution.

By Mr. McKEON :

Q. Refer to the minutes of the board of trustees of April 13, 1874 ?

A. [Reading]

“Mr Gregory offered the following :

“WHEREAS, The financial condition of this institution does not warrant the payment of the present expenses, which are in excess of the receipts ; and,

“WHEREAS, It is not right to pay the expenses out of the deposits ; and,

“WHEREAS, It is the duty of the board of trustees to preserve this institution on a sound and healthy basis, for this purpose, therefore,

“Resolved, That the annual salaries of the officers and employees shall, from the 1st day of May, 1874, be as follows :

“That of the president, \$

“That of the secretary, \$

“That of the teller, \$

“That of the night watchman, \$ ; and that the salaries of all other employees remain as at present.

“WHEREAS, The duties assigned to the examiners can be performed by a less number.

“Resolved, That from the 1st day of May, 1874, the number of examiners be reduced to two.

“Mr. Gregory stated that he had left the salaries blank in each case for the action of the board.

“It was moved by Mr. Fenn that the resolution be laid over until the semi-annual report in July, which was declared carried.”

By Mr. CHAPMAN :

Q. No one voting against it ?

A. It does not state ; it was declared carried.

Q. It don't show that any one was voting against it ?

A. No, sir ; the next reference to these minutes is on July 13th, 1874.

"The resolution of Mr. Gregory, submitted at a previous meeting, in the matter of a reduction of salaries, was then taken up, and it was moved by Mr. Fenn that Mr. Gregory's resolution be referred to Messrs. Tappen, Gregory and Floyd to report to the next meeting as to the expediency of a reduction of salaries, and until he reported of its acceptance by the board the salaries shall remain as at present.

"Mr. Kane moved as an amendment that the matter of a reduction be postponed until the December meeting. Under a call of ayes and noes declared lost.

"AYES — Bennett, Le Count, Ross, Smith and Kane.

"NOES — Fenn, Sharot, Wilcox, Gregory, Tappen, Floyd.

"Mr. Roberts not voting.

"Mr. Fenn then moved for a division of the question, and under a call of ayes and noes the same was declared carried.

"AYES — Bennett, Roberts, Sharot, Wilcox, Le Count, Ross, Gregory, Smith, Tappen, Floyd and Kane.

"NOES — Mr. Fenn.

"That part of Mr. Fenn's resolution which refers to Messrs. Tappen, Gregory and Floyd, the question of the expediency of a reduction of salaries, was then put, and under a call of ayes and noes declared carried.

"AYES — Sharot, Wilcox, Ross, Gregory, Smith, Floyd.

"NOES — Bennett, Fenn, Le Count, Kane. Mr. Roberts excused.

"It was then moved by Mr. Fenn that the salaries of the examiners be continued at \$100 a month until the committee report of its acceptance by the board.

"Mr. Ross offered the following substitute:

"That the election of examiners be laid over until the next regular meeting. Under a call of the ayes and noes the same was declared carried.

"AYES — Roberts, Bennett, Fenn, Wilcox, Le Count, Ross, Smith, Tappen and Kane.

"NOES — Sharot and Gregory. Mr. Floyd excused."

The next meeting was on the 10th of August.

Q. When was the dividend declared?

A. The dividend was declared.

By Senator ST. JOHN:

Q. I want the time the dividend was declared, and what it was?

A. On the 8th of June that meeting took place at which the dividend was declared.

Q. How much?

A. I shall read the minutes; it was three per cent semi-annual dividend:

"It was then moved, by Mr. Fenn, that the usual semi-annual divi-



dividend and extension of time be declared and published by the officers, which was declared carried unanimously."

On the 13th of July reference is made to it again: "Mr. Gregory desired his protest entered against declaring a dividend without taking the call of the ayes and noes. Mr. Floyd, too, entered his protest against paying a dividend which he believed had not been earned.

By Senator COLEMAN:

Q. This was after the dividend had been declared?

A. Yes, sir.

Q. And they commenced to pay that the 1st of July?

A. Yes, sir.

By Mr. MCKEON:

Q. Go on?

A. The following was then offered by Mr. Tappen:

"*Resolved*, That the resolution directing the payment of the usual half yearly dividend, passed by the June meeting, be re-passed in the following form, and by a vote of ayes and noes to be taken and entered:

"*Resolved*, That a dividend of three per cent for the six months ending July 1st, be declared out of the earnings of the institution and credited and paid to depositors entitled thereto under the rules.

"Under the call of ayes and noes the same was declared carried.

"AYES — Roberts, Bennett, Fenn, Wilcox, Le Count, Ross, Smith, Tappen and Kane.

"NOES — Sharot, Gregory, and Floyd under protest."

By Mr. CHAPMAN:

Q. He voted under protest?

A. I am reading from the minutes; the next is a meeting of August 10th; on August 10th Mr. Gregory, from the committee to whom was referred the expediency of a reduction of salaries, in the absence of the chairman, submitted a report; after considerable discussion it was moved by Mr. Fenn that the report be received and laid on the table, and made the special order of the September meeting; under the call of ayes and noes the same was declared carried:

"AYES — Roberts, Bennett, Fenn, Wilcox, Le Count, Ross and Kane.

"NOES — Sharot, Gregory and Floyd.

"A. B. Tappen, absent.

"It was then moved by Mr. Fenn that the officers pay the exam-

iners the same compensation as heretofore until changed by the board; under the call of ayes and noes the same was declared lost.

“AYES — Bennett, Wilcox and Kane.

“NOES — Sharot, Ross, Gregory and Floyd.

“Messrs. Sharot, Floyd and Gregory protested against any payment.

“Mr. Fenn then moved that the examiners be paid the usual salary for the month of July, and under a call of ayes and noes the same was declared without dissent.”

The next minutes are September 14th, 1874:

“A communication from A. B. Tappen, chairman of the committee appointed to report on the expediency of a reduction of salaries, was then read, and, on motion of Mr. Kane, was received and ordered on file. The special order of the evening, the report of the committee in the matter of salaries submitted at the last meeting, was then taken up, and after considerable discussion Mr. Fenn moved the following salaries be substituted for those named by the committee, the same to take effect from October 1st:

“President, \$3,000 per annum.

“Secretary, \$3,000 per annum.

“Book-keeper, \$2,000 per annum.

“Teller, \$2,000 per annum.

“And examiners, \$800 per annum each.

“Under a call of ayes and noes the same was declared carried.

“AYES — Messrs. Fenn, Wilcox, Le Count, Ross and Kane.

“NOES — Gregory and Floyd under protest, Mr. Sharot not voting.”

By Mr. CHAPMAN:

Q. That was a reduction?

A. Yes, sir; they recommended one reduction, and the board of trustees made another; the report was placed on file.

Mr. McKEON — Let us have that.

Mr. CHAPMAN — You now refer to schedule A.

Mr. McKEON — Yes, sir.

Mr. CHAPMAN — This report I want in; it tells a story; I have no objection to its going in, accompanying the report; indeed, I want it in, with the understanding that the pencil marks are all Mr. Best's.

[Mr. McKeon offered in evidence the report of the committee, Messrs. Floyd and Gregory, dated August, 1874, with schedules A and B.]

SCHEDULE A — (*Financial Statement, 30th June, 1874*).

SECURITIES.	Par value.	Rate of interest.	Cost.	Market value.	Time.	Interest.
Bonds and mortgages .....	\$748,150 00	Per ct.	\$748,150 00	\$748,150 00	6 mos.	\$26,185 25
City Revenue bonds .....	275,000 00	7	275,000 00	275,000 00	6 mos.	9,625 00
City Revenue bonds .....	100,000 00	6	100,000 00	100,000 00	3 mos. 6 days.	1,600 00
Brooklyn Park bonds .....	240,000 00	7	241,575 00	240,000 00	6 mos.	8,400 00
Oswego City bonds .....	197,000 00	7	187,150 00	197,000 00	6 mos.	6,815 00
Buffalo City bonds .....	70,000 00	7	69,300 00	70,000 00	6 mos.	2,450 00
Buffalo City bonds .....	60,000 00	7	59,400 00	60,000 00	4½ mos.	1,575 00
Rochester City Water bonds .....	100,000 00	7	99,000 00	100,000 00	4½ mos.	3,625 00
Rochester City Water bonds .....	150,000 00	7	148,500 00	150,000 00	3 mos. 23 days.	3,295 80
Rochester City Water bonds .....	6,000 00	7	6,000 00	6,000 00	6 mos.	210 00
Westchester bonds .....	10,000 00	7	10,000 00	10,000 00	6 mos.	350 00
Yonkers bonds .....	21,000 00	7	20,580 00	21,000 00	6 mos.	735 00
Wallabout Improvement bonds .....	17,000 00	7	17,000 00	17,000 00	6 mos.	595 00
Morrisania bonds .....	3,000 00	7	3,000 00	3,000 00	4½ mos.	78 75
Tennessee bonds .....	168,000 00	6	104,771 25	100,800 00	.....	5,040 00
South Carolina bonds .....	155,000 00	6	90,050 00	28,675 00	.....	.....
North Carolina bonds .....	114,600 00	6	74,550 00	20,628 00	.....	.....
Alabama bonds .....	166,000 00	8	157,700 00	66,400 00	.....	.....
	\$2,600,750 00			\$2,213,653 00		
Bank interest on deposit .....			.....	.....	.....	\$3,886 14
Interest received \$350,000, City Revenue bonds .....			.....	.....	15 days.	1,020 83
Interest received \$100,000, City Revenue bonds .....			.....	.....	1 month.	583 33

Interest received \$4,000, Yonkers bonds .....	.....	1 month. 18 days.	\$23 33
Interest received \$5,000, E. Gould bonds .....	.....		17 26
Banking house .....	\$65,725 00		\$75,190 69
President, Van Brunt street house, rent 6 months....	21,510 92		133 33
President St., No. 32, rent 6 months .....	7,044 47		408 00
Stable, Van Brunt street, rent 6 months .....	.....		100 00
	\$2,307,933 39		\$75,832 02
Deduct interest on \$3,800, 3.23 days, less 6 mos.; one-eighth com. collection, Rochester city .....			
			92 95
			\$75,739 07

### RECAPITULATION.

#### *Liabilities:*

Amount due depositors as per semi-annual statement principal..	\$2,565,178 17
Interest due July 1 .....	73,574 66
	\$2,491,603 51

#### *Assets:*

Market value assets, June 30, 1874 .....	\$2,307,933 39
Interest from all sources .....	75,739 07
	2,383,672 46
Deduct .....	\$255,080 37
	73,574 66
Deficiency .....	\$181,505 71

## SCHEDULE B.

STATEMENT OF EXPENSES FOR SIX MONTHS ENDING 30TH OF  
JUNE, 1874.

Salaries for six months .....	\$9,850 00
Gas bill .....	29 15
Advertising .....	93 50
Petty cash book.....	73 86
Referee foreclosure, President st., \$1,288.65 ; Joel W. Mason .....	24 00
Examining committee, property .....	47 00
Special examining committee, incidental.....	103 59
Gas bill.....	37 95
Petty cash .....	86 93
Insurance, \$5,000, bank building.....	25 00
Insurance, 32 President st.....	8 75
Examiners, bank department .....	79 11
Gas bill.....	29 97
Petty cash .....	56 17
G. T. Clark, Virginia suit.....	104 50
Insurance, President st .....	18 75
Bank examiners.....	150 00
Gas bill.....	24 47
W. W. Sharp, annual advertising .....	226 90
Advertising, German paper .....	52 80
Advertising, German annual.....	131 20
Petty cash .....	44 12
Davies & Vanderpoel, law suit .....	1,750 00
Gas Co.'s bill .....	21 45
Roberts, stationery .....	71 15
W. W. Sharp, advertising.....	93 25
Campbell Bros., repairing .....	17 85
Petty cash .....	41 02
Insurance, President st .....	11 25
Gas bill.....	18 70
Petty cash .....	72 84
U. S. Revenue tax to June 1st.....	1,381 31
Jas. Ross, coal, \$154.....	77 00
Plumbing bill, 32 President st. ....	12 08
Plumbing, Mantello's bill .....	29 99
Plumbing, Mantello's bill .....	4 50
Interest on investment, President st., \$21,510.92.....	752 88
Interest on investment, 33 President st., \$7,044.47 .....	222 26
Taxes, President and Van Brunt sts., 1873, \$501.84.....	250 92

Taxes, 33 President st., \$186.46.....	\$93 23
Cash, to A. J. Conklin, Virginia .....	504 00
Water tax, President and Van Brunt sts.....	18 00
Water tax, 32 President st., and stable.....	27 75
Tax, bank building, 1873, \$765.....	382 50
Gas bill, President st.....	14 70
Plumbing, 32 President st., Jan. 8 .....	2 05
Plumbing, 32 President st., Jan. 26 .....	5 15
Carpentering .....	3 50
Agent McDonough, commission.....	27 06

---

\$17,206 11

Interest due depositors..... 73,574 66

---

\$90,780 77

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Amount of interest received and accrued, viz. :

Bonds and mortgages.....	\$26,185 25
Stocks and bonds.....	43,474 55
Oriental and other banks .....	3,886 14
City revenue bonds.....	1,604 16
Yonkers bonds.....	23 33
Goulard bond and mortgage.....	17 26
Rents Brooklyn property.....	641 33

---

\$75,832 02

Deduct interest on \$3,800.....\$3.23

Deduct one-eighth commission, Rochester. .... 92 95

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\$75,739 07

---

Amount of interest credited to depositors on \$2,565,178.17,	\$73,574 66
Salaries .....	9,850 00
Taxes and revenue tax.....	2,107 96
Advertising .....	599 65
Coal and gas bill .....	253 39
Bank department .....	229 11
Insurance .....	63 75
A. T. Conklin & Clark, Virginia.....	608 50
Special exchange, commissions and property.....	150 59
Repairs President street and gas.....	103 02
Agent McDonough.....	27 06
Petty cash expense .....	376 94

Davies & Vanderpool .....	\$1,750 00
Other expenses .....	1,088 14
	<hr/>
	\$90,780 77
	75,739 07
	<hr/>
	\$15,041 70
	<hr/>

The WITNESS — I now read from the minutes of December 28th, 1874: "After some discussion in the matter of declaring dividends it was moved by Mr. Fenn that a semi-annual dividend of three per cent be declared and credited to depositors on the 1st day of January next, and that the same be advertised as usual.

"Under a call of ayes and noes the same was declared carried.

"AYES — Roberts, Fenn, Wilcox, Le Count and Kane.

"NOES — Floyd and Gregory, under protest."

By Mr. McKEON :

Q. Now turn to the meeting of June 14th, 1875 ?

A. "June 14th, 1875. It was then moved by Mr. Conklin that the usual semi-annual dividend of three per cent for the six months ending June 30th, be declared and credited to depositors on July 1st, and the same be advertised as usual. Under a call of ayes and noes the same was declared carried.

"AYES — Roberts, Bennett, Conklin, Fenn, Sharot, Wilcox, Le Count, McMurray and Kane.

"NOES — Gregory and Floyd under protest."

Q. Now, turn to December 31st, 1875 ?

A. "December 31st, 1875. After some explanation as to our actually accrued earnings and receipts from interest and sale of securities, it was moved by Mr. Kane, and seconded by Mr. Roberts, that we declare our usual semi-annual dividend of three per cent for the six months ending December 31st, 1875, and the usual notices be advertised. Under a call of ayes and noes the same was declared carried.

"AYES — Roberts, Conklin, Sharot, Wilcox, Le Count, Ross and Kane.

"NOES — Gregory."

By Senator ST JOHN :

Q. That is for January, 1876 ?

A. Yes, sir ; that was the last dividend.

By Mr. McKEON :

Q. Now, the value of the southern securities ?

A. I now read from the minutes of November 20th, 1874: "It was moved by Mr. Fenn that the president, secretary and Mr. Gregory be a committee to report at an adjourned meeting the class and value of our North and South Carolina bonds, and the propriety of selling the same and investing the same in interest-paying securities, which was declared carried." The vote was not given in that case.

*"December 20, 1874.*

"Mr. Gregory, to whom was referred the question of selling our North and South Carolina bonds, etc., reported that at the present market prices the bonds would realize in round numbers about \$60,000. It was thereupon moved by Mr. Fenn that the report be accepted, the committee discharged and the matter be laid upon the table until the January meeting, or such time as the board may choose to act thereon, which was declared carried."

By Mr. CHAPMAN :

Q. Who were on that committee ?

A. The president, the secretary and Mr. Gregory.

Q. Who made the report ?

A. Mr. Gregory.

Q. You have read all there is in relation to the dividends ?

A. Yes, sir.

Mr. McKEON — That is all we offer.

By Mr. CHAPMAN :

Q. What were the number of directors at that time — trustees ?

A. I think the number was twenty in 1874.

Q. On the declaring of these various semi-annual dividends it appears that Mr. Floyd and Mr. Gregory voted against them ?

A. Yes, sir.

Q. What would be the effect upon depositors, supposing the majority of the board had agreed with them and voted not to declare a semi-annual dividend ?

A. I cannot say.

Q. What would be the effect on the bank ?

A. I should say the depositors in the bank would have regarded it as not in a sound condition.

Q. They would have become alarmed, and continued to withdraw their deposits ?

A. Yes, sir.

Q. And the effect of it would be it would be a substantial closing up of the bank ?

A. Yes, sir.

Q. And the bank officers would be compelled to have sold their



securities at any prices they could get so as to meet these calls of depositors ?

A. Yes, sir.

Q. Then the effect of the vote of Mr. Floyd and Mr. Gregory, the complainants in this case, was to injure the bank, was it not ?

A. I won't say that ; I cannot tell what the effect of the vote would be.

Q. If the rest had acted as they had it would have closed up the bank immediately, would it not ?

A. Yes, sir.

By Senator ST. JOHN :

Q. I suppose this bank had a set of rules and by-laws, as other banks have ?

A. Yes, sir.

Q. Have they not a rule which gives the bank sixty days to pay depositors ?

A. Yes, sir.

Q. And they can give notice to depositors that they will not pay under sixty days ?

A. Yes, sir ; and they have enforced the rule on several occasions since 1873.

Q. So it would not have been a sudden closing up ; it would have given the bank sixty days lease of life ?

A. Yes, sir.

By Mr. CHAPMAN :

Q. And the majority of those trustees voted to declare a dividend ?

A. Yes, sir.

Q. And these two gentlemen voted against it generally ?

A. Yes, sir.

Q. And these two gentlemen are the complainants in this case ?

A. Yes, sir.

Q. It was on their affidavits that you presented your letter to Governor Tilden ?

A. The affidavits and these minutes.

Q. The resolution which you read appointed this committee to investigate the question of the reduction of salaries, didn't it ?

A. Yes, sir.

Q. Nothing was said in the resolution about reporting in regard to the condition of the bank ?

A. Nothing.

Q. Nothing in the books, so far as you have seen ?

A. No, sir.

Q. On that resolution which appointed them for the purpose of investigating the propriety of reducing salaries these gentlemen went on and made a report as to the condition of the bank, did they?

A. Yes, sir; that is the record.

Q. Mr. Tappen was one of that committee?

A. Yes, sir.

Q. Mr. Tappen didn't sign the report?

A. No, sir.

Q. That is Judge Tappen?

A. Yes, sir.

Q. This report which I hold in my hand is the report which you found when you went in there, is it not?

A. Yes, sir.

Q. You notice an erasure and an interlineation in that report, do you not?

A. I don't see an erasure; there is an interlineation there.

Q. There is a crossing out and interlineation?

A. Yes, sir.

Q. Read that which is crossed out; it purports to be giving the amount of the liabilities, does it not?

A. Yes, sir.

Q. Read that clause as it stood before the interlineation, commencing with the liabilities?

A. "Showing that the liabilities exceeded the assets by \$255,080.37. See schedule A attached to this report."

Q. Read it now as it is interlined?

A. "Showing that the liabilities exceeded the assets by \$181,505.71."

Q. There is a difference between those two readings of about how much?

A. \$73,574.66.

Q. On the margin against that is written what?

A. "Less liabilities, interest credited to depositors, \$73,574.66; error made on schedule A."

Q. These interlineations are in different ink from the original report, are they not?

A. I should say they were.

Q. Now, in this schedule A, attached to this report, in the first place there is entered a deficiency of \$255,000, is there not?

A. Yes, sir.

Q. And subsequently, in different ink there is entered, "Deduct \$73,574.66?"

A. Yes, sir.

Q. Leaving a deficiency of only \$181,505.71.

A. Yes, sir.

Q. And that is written in a different ink, and at a different time?

A. Yes, sir.

Q. Now, I will ask you whether you do not know that those gentlemen who, in this report, say they have very carefully examined and considered the condition of the bank did not discover, after they had made the report to the bank, an error of \$73,000, which they inter-lined?

A. That I know nothing of; that is the paper as I found it; I know nothing of it except as you have it in your hand.

Q. These minutes which you have read indicate there was this difference of opinion between these gentlemen, and other members of the board of directors?

A. Yes, sir.

Q. And the superintendent's letter to the bank shows that he was cognizant of that fact, does it not?

A. Yes, sir.

Q. And he advised them against continuing these quarrels?

A. Yes, sir.

Q. You do not know whether there were any more complaints made to Mr. Ellis from 1874 down to the time of closing the bank?

A. I do not; there is nothing in the books to show it.

Q. Is there any thing in the minutes here to indicate as to the length of time Mr. Ellis and Mr. Reid were examining this bank?

A. No; I don't think that any length of time was indicated.

Q. Let me call your attention; read the following:

A. "The chair then stated that the complaint made to the attorney-general by two of the trustees, had been by him submitted to the superintendent of the bank department; that the superintendent, in company with Mr. Reid, as general examiner, had spent a week in examining into the condition of the institution, and the result of their labors and calculations are submitted in a letter which the secretary here read to the board."

Q. Do you recollect Mr. Gregory swearing the other day, that he didn't hear any such letter read?

A. I remember the question, but I do not remember his answer.

By Senator WELLMAN:

Q. What is the date of the minute?

A. November 9, 1874.

By Mr. CHAPMAN:

Q. It also appears from that which you read, that there was one complaint by these gentlemen in regard to the amount of the salaries of the officers?

A. Yes, sir.

Q. And Mr. Ellis in his letter also told them they ought to reduce the salaries, did he not?

A. Yes, sir.

Q. Do you know from your examination of the books that the salaries were reduced?

A. No, sir.

Q. Do you know whether they were or not?

A. I think they were reduced in 1876; I won't be sure.

Q. They were reduced in 1874?

A. They were reduced to \$3,000 from \$5,000.

Q. Were they not reduced in 1875?

A. I think they were; it was in the latter part of 1875, or early in 1876, that there was another reduction.

Q. Then the salaries were reduced after the receipt of the letter from Mr. Ellis?

A. Yes, sir.

Q. There was a reduction before, and a reduction after?

A. Yes, sir.

Q. Prior to the time Mr. Ellis took his position as superintendent the expenses of the bank had been large, had they not?

A. Yes, sir.

Q. Up to \$23,000 and \$24,000?

A. Yes, sir; and as high as \$34,000.

Q. That was prior to the time Mr. Ellis came in?

A. Yes, sir.

Q. Under a former superintendent?

A. Yes, sir; I suppose so.

Q. He came in February, 1873?

A. Yes, sir.

Q. Do you know that from February, 1873, the expenses of this bank for salaries to officers were being constantly reduced each year?

A. Yes, sir; I do.

Q. Reduced in 1873, when Mr. Ellis first went in?

A. No; not when he first went in; they were not reduced in 1873; I think they were not, but I won't be positive; there was a reduction made.

Q. Were the salaries \$34,000 in 1873?

A. No; the expenses.

Q. I am going to salaried officers; were not the salaries of officers reduced, so that in 1873 they were \$10,000 less than what they had been?

A. No, sir; the salaries were not reduced in any such proportion.

Q. They were not?

A. No, sir; not \$10,000.

Q. Between 1872 and 1873, had they not been reduced; I will ask you whether in 1872 the expenses of officers, etc., with insurance premiums, were not \$34,500?

A. Yes, sir.

Q. In 1873, were they not reduced to \$23,900.

A. I cannot tell you without a memorandum; I have it all taken off here.

Q. [Handing memorandum to witness.] Well, I will give you the memorandum?

A. Yes, sir; \$23,900.

Q. In 1874 you have entered \$24,282?

A. Yes, sir.

Q. Do you know that about \$2,000 of that was payment for litigation caused by these men, Floyd and Gregory?

A. They paid the expenses, I think, during that year.

Q. Nearly \$2,000?

A. No; this was the year they paid for the litigation, in 1875.

Q. They paid Davies and Vanderpoel \$1,750 in that year for litigation caused by Floyd and Gregory?

A. Yes, sir.

Q. Making that reduction, is not the amount which this bank paid for salaries in 1874 less than it was in 1873?

A. Yes, sir; of course it is less; no, not in salaries; the reduction was in all expenses; the salaries amounted for the six months—

Q. I want you to answer my question; in 1875 there was a very material reduction, was there not?

A. Yes, sir.

Q. The expenses were how much, in 1875?

A. Eighteen thousand and odd dollars.

Q. That was the year after Mr. Ellis examined the bank, and after Mr. Ellis had written this letter to the officers?

A. Yes, sir.

Q. There was a reduction of about \$8,000, was there not?

A. No, sir; \$6,000 that would be.

Q. And during the next year, up to the 10th of June, the amount paid was only \$5,500 was it not?

A. Yes, sir; but that did not include the salaries that had accrued; some salaries had accrued and were not paid at the time of the concern going into insolvency; there were other salaries due which I am paying the dividends on now, with other matters.

Q. Then it was about \$6,000 from the 1st of January, 1875, to the 10th of July, 1876?

A. Yes, sir.

Q. It appears from those figures that from the time Mr. Ellis went in there had been a material change in the action of the bank in accordance with his suggestions?

A. There has been a change in reducing all the time.

Q. A very material change?

A. Yes, sir.

Q. In accordance with the suggestions in his letter?

A. Yes, sir; I should say so.

Q. [Handing report to witness.] Look at that report and say whether they make any recommendation in regard to the reduction of the salary of the president at all; is there any recommendation as to the salary of the president at all?

A. No, sir; there has been a recommendation, but it is crossed out.

Q. As to amount?

A. Yes, sir.

Q. Will you read it?

A. I cannot read it, because that has been very perceptibly scratched.

Q. But it has been in your hands since you became receiver?

A. Yes, sir.

Q. You didn't scratch it out?

A. No, sir.

By Senator ST. JOHN:

Q. During these years, 1873, 1874, and 1875, were the deposits of this bank largely decreasing—becoming a much smaller concern than it had been?

A. Yes, sir; they were running down steadily.

Q. They were very much reduced in amount?

A. Yes, sir.

By Mr. CHAPMAN:

Q. Commencing October, 1875, did not the depositors commence drawing out rapidly from this bank?

A. Yes, sir.

Q. And continued down to June, 1876?

A. March, 1876; then they enforced the sixty-day rule.

Q. In the month of March, 1876, they drew out more than their deposits, some \$212,000?

A. Yes, sir; that is the record.

Q. So that the depositors evidently became alarmed in the latter part of 1875?

A. Yes, sir; in the fall.

Q. And pretty soon after the commencement of this suit by Mr. Floyd against the bank?

A. I don't know as to the time of the beginning of the suit; it was in 1875; I think it was in the spring of 1875.

Q. But it went along into summer?

A. Yes, sir; I think it was in the summer it was decided.

Q. And the effect of that became noised abroad, and the depositors became alarmed?

A. Yes, sir.

Q. As indicated by these withdrawals?

A. Yes, sir.

Q. These gentlemen were not then working in the interest of the depositors all the time?

A. That is not for me to say.

Q. It didn't work for their benefit?

A. No, sir; it didn't.

By Senator ST. JOHN:

Q. When the expenses of this bank, in 1873, were \$23,900, how much property had they then to mortgage?

A. In July they had \$2,931,348.95, according to the books.

Q. Now, look in 1874 and 1875, on the 1st of July of each year?

A. On the 1st of July, 1874, \$2,565,252.83; July 1st, 1875, \$2,436,520.85.

By Mr. CHAPMAN:

Q. So that on the 1st of July, 1875, they had nearly as much assets as they did on the 1st of July, 1874?

A. No, sir; nearly; yes, there was a difference of \$120,000.

By Senator ST. JOHN:

Q. When you took possession of it, it was how much?

A. Less than a million and a half.

Q. So that from July 1st, 1875, and largely from January 1st, 1876, there had been nearly a million of dollars drawn out, had there not—say from November, 1875?

A. Beginning with October, 1875, I should say that all of a million dollars had been drawn out up to the time of my becoming receiver.

By Mr. CHAPMAN:

Q. Now, by reference to your minutes of November 9th, 1874, you find that the communication from the superintendent of the building department to the bank was written?

A. Yes, sir.

Q. What action was taken by the bank on receipt of that communication; read the action?

A. "It was moved by Mr. Kane, that the communication from the bank department be referred to a committee of five, consisting of the president, first vice-president, secretary, Judge Tappen and Mr. Roberts, to report action thereon at an adjourned meeting, to be held on Friday, November 20th, at 5 P. M."

Q. Who voted for that, or rather who voted against it?

A. "Mr. Tappen declined to serve. The resolution was declared carried, Messrs. Gregory, Floyd and Sharot asking to be quoted in the negative."

Q. These gentlemen seemed to be opposed to obeying the suggestion of the superintendent of the banking department?

A. I should say they were opposed to returning it in that way.

Q. I will now ask you to turn to the minutes of the meeting of November 20, 1874, when the committee reported; read the proceedings:

A. "The special committee to whom was referred the communication from the bank department submitted a report commending a compliance with the superintendent's suggestion in the matter of bonds, and also advising, in view of the fact that all good securities were advanced in price since the date of the superintendent's communication, that the committee be authorized to confer with him relative to a reduction in amount of such bonds, etc. It is moved by Mr. Fenn that the report of the committee be accepted and adopted, and under the call of ayes and noes the same was declared carried.

"AYES — Roberts, Fenn, Wilcox, LeCount, Ross, Tappen and Kane.

"NOES — Floyd and Gregory.

"Mr. Tappen desired to explain, that while in favor of adopting the report he would leave the question of giving bonds to those trustees who deemed it their duty to do so."

Q. It seems that Mr. Floyd and Mr. Gregory, the complainants in this case, were opposed to the appointing of a committee to communicate with the superintendent, and when the report came up in the board to agree with the suggestions of the superintendent, these two gentlemen voted against that?

A. That is the record there.

Q. [Handing book to witness.] Now, in regard to some of these securities which Mr. Ellis is charged with having valued too high at this time, I will call your attention to the minutes of November 20, 1874; read that:

A. "It was moved by Mr. Fenn that the president, secretary, and Mr. Gregory be a committee to report at an adjourned meeting the



class and value of our North and South Carolina bonds, and the propriety of selling the same and investing the proceeds in interest-paying securities, which was declared carried."

Q. Down to December 28?

A. The meeting of December 28, 1874, Mr. Gregory —

Q. One of these complainants?

A. Yes, sir; Mr. Gregory, the committee to whom was referred the question of selling our North and South Carolina bonds, etc., reported that at the present market prices the bonds would realize in round numbers about \$60,000; it was thereupon moved by Mr. Fenn that the report be accepted, the committee discharged, and the matter be laid upon the table until the January meeting, or such time as the board may choose to act thereon.

Q. Do you know the amount which Mr. Ellis put in the report as the value of the North and South Carolina bonds, when he examined it?

A. No, sir; I do not; I never saw his report.

Q. [Showing witness original report.] Can you tell from that?

A. \$60,730.

Q. Mr. Ellis valued those at \$60,730, and Mr. Gregory reports them at \$60,000?

A. Yes, sir;

Q. This small depreciation in this large lot of bonds?

A. Yes, sir.

Q. Do you know that some of these Tennessee bonds which are in Mr. Ellis' report, which Mr. Ellis valued at  $58\frac{1}{2}$ , that some of those Tennessee bonds were subsequently sold by the bank at 65?

A. I am not sure as to price they realized; I can get you the actual figures they realized.

Q. I wish you would bring that here; now, I ask you to refer to your minutes of January 25, 1875; in the examination by Mr. Ellis, Rochester bonds were put in in October at par, were they not?

A. They are not here at par.

Q. Now, on January 25, 1875, was it stated and recorded in the minutes that the Rochester and Buffalo City bonds were selling at present at  $105\frac{1}{2}$ ?

A. Yes, sir.

Q. The Rochester and Buffalo bonds are both put in at the time Mr. Ellis valued them at par — that is 100?

A. Yes, sir.

Q. And the interest had been taken off in the meantime?

A. That was with interest; those were for 105 and interest; that is the way those securities are always sold.

Q. Then it would be  $105\frac{1}{2}$  and the interest from the 1st of January?

A. Yes, sir.

Q. That would be about 106?

A. About 106.

Q. [Handing letter to witness.] This is your letter to Governor Tilden, is it not, which I now show you?

A. Yes, sir.

Q. The schedule marked A, attached to that letter, is in your handwriting, is it not?

A. No, sir; it is in the handwriting of one of my clerks.

Q. It was all made under your direction?

A. Under my direction.

Q. The figures and writing?

A. Every thing there was made under my direction.

Q. Made the day it bears date?

A. No; probably it was made a few days before that time; within a few days.

Q. In whose handwriting is the certificate purporting to be signed by Mr. Pratt?

A. That handwriting is the handwriting of one of my clerks.

Q. The same one who wrote schedule A?

A. No, sir; another one.

Q. That certificate was drawn up by another of your clerks?

A. Yes, sir.

Q. When was that drawn up?

A. I suppose the day that it was sworn to; I sent for Mr. Pratt, and I think he came down the same day, or the day after.

Q. This certificate of Mr. Pratt appears to be on a different paper from the paper on which the schedule is?

A. No, sir; it is the same kind of paper, but reversed; it is legal cap turned upside down.

Q. It seems to be attached to it?

A. Yes, sir.

Q. Do you recollect that these figures were written in there at the time Mr. Pratt signed, or not?

A. That schedule was all made out before Mr. Pratt came to the bank; all that I wanted him to certify was, whether or not those covered all the assets of the institution up to that time, and not the market value.

Q. This certificate does not certify at all as to the correctness of either the liabilities, or their amount, or their market value?

A. He certifies that it includes all of the assets.

Q. He does not certify as to the market value, or the amount, or the amount of the liabilities?

A. No, sir.

Q. He simply certifies to the assets ?

A. Yes, sir ; that is all.

Q. And you carried out the prices of those assets ?

A. Yes, sir.

Q. Did you call schedule A, to which I have called your attention, a balance sheet, which you sent to the governor ?

A. I don't know that I sent it as a balance sheet.

Q. Did you say to the governor that it was made up by Mr. Pratt ?

A. No, sir ; I don't think I did.

Q. When the governor, in his charge, which he sent to the senate, alludes to the proof of these charges, his first allegation is "a balance sheet made up by George N. Pratt, who was at the time general book-keeper of the bank ;" did Mr. Pratt make out that balance sheet at all ?

A. No, sir ; he didn't make it out.

Q. He didn't certify as to the values upon it ?

A. No, sir ; he didn't certify as to the values.

Q. You made those out ?

A. Yes, sir.

Senator ST. JOHN — I want to know what the valuation of these Alabama bonds was when this examination was made.

Mr. CHAPMAN — They were put in at 50.

By Senator WELLMAN :

Q. I would like to know the date of the meeting of the trustees at which the report was made in favor of the giving of the bonds, as suggested by the superintendent in his letter ?

A. November 24th, 1874 ; recommending a compliance with the superintendent's suggestion about giving bonds.

By Mr. McKEON :

Q. You have stated here that the depositors began to draw out their funds in the fall of 1875 ?

A. Yes, sir.

Q. Didn't they begin to draw out before that ?

A. Yes, sir ; they began to draw out back of that time, but heavily then.

Q. When did they begin to draw so that it was noticeable ?

A. It was noticeable in January, 1872 ; they drew out in that month, in excess of the deposits, \$387,000.

Q. Now, take 1873 ?

A. November, 1873, the deficit was \$48,000 ; March, \$17,000 ; in April it was \$45,000 ; in May it was \$9,000 ; in June there was a sur-

plus of nearly \$11,000; in July there was a deficit of \$71,000; in August there was a deficit of \$73,000; in September, \$94,000; in October, \$20,000; in November, \$32,000; in December, \$20,000; in January, 1874, \$126,000.

By Mr. CHAPMAN:

Q. That includes the payment of the interest on the dividend?

A. Yes, sir; February, \$39,000; in March, only \$4,000; in April, \$10,000; in May, \$28,000; in June, 1874, there was a surplus of \$5,000; in July, 1874, there was a deficit of \$117,000.

Q. That included the dividend?

A. Yes, sir; January and July; in August, \$26,800; September, \$18,000; in October, \$27,000 in round figures; in November, \$9,000; in December, \$9,000; in January, 1875, the deficit was only \$7,000.

Q. You declared a dividend also?

A. Yes, sir; in February, \$25,000; in March, \$13,000; in April, \$27,000; in May, \$12,000; in June, the surplus was nearly \$25,000; the receipts exceeded the payments.

Q. Aside from the payment of the dividend?

A. Yes, sir; in July, the deficit was \$85,000; in August, \$12,000; in September, \$33,000; in October, \$81,000.

Q. This is where the grab begins?

A. Yes, sir; this is where the drain began; in November, \$162,000; in December, \$141,000; in January, 1876, \$136,000; in February the deficit is \$124,000; in March, \$212,000; in April, \$83,000; in May, \$43,000.

Q. So that the drafts commence in October, 1875, after those suits were commenced by Mr. Floyd and Mr. Gregory?

A. Yes, sir.

By Mr. McKEON:

Q. Didn't the report, made by the examiners in 1874, show a deficiency?

A. It shows a deficiency of income; that is, an annual deficiency, and not for that time.

Mr. McKEON — By the report made by the examiners, George W. Reid, William F. Aldrich and Isaac H. Vrooman, to examine the bank March 31st and April 1st, 1874, it appears the following memorandum was made: "The large amount locked up in Southern State bonds, upon which interest is suspended; the failure to rent real estate, and the balance of an old bankruptcy claim, have combined to reduce the income of the bank so much that a deficiency of over \$14,000 will occur for the current year. The trustees hope to realize money from Southern bonds and the sale of real estate."

Q. Was that Goulard judgment ever paid ?

A. No, sir ; but I consider it good ; I have returned it as worth its face ; it will be recovered ; that is the Virginia case ; it is not settled yet ; but it will be, I think.

By Mr. CHAPMAN :

Q. Do you know how many different deficiencies have been found by these gentlemen and yourself in the state of the bank on July 1st, 1874 ?

A. No, sir ; the only deficiency I know of is the one reported, and the one I made.

Q. Do you know how many different deficiencies have been fixed upon by you, Mr. Floyd and Mr. Gregory ?

A. Only one by me, and I only know of one by Mr. Floyd and Mr. Gregory ; they are the only papers that came to me.

Q. In the first report which Mr. Floyd and Mr. Gregory make to the board, they report a deficiency of \$255,000, do they not ?

A. Yes, sir.

Q. That is one deficiency ?

A. Yes, sir.

Q. That they subsequently correct by striking out \$73,000 themselves ?

A. Yes, sir.

Q. This report to the board, as thus amended, and the report after they have thus amended it, is a deficiency of how much ?

A. Of \$181,000.

Q. You, in 1876, write this letter to the governor, in which you fix the deficiency in 1874 as \$201,000 ?

A. Yes, sir.

Q. In the summons and complaint, already introduced in evidence here, Mr. Floyd and Mr. Gregory swear that the deficiency was \$115,000 ?

A. I don't know what that is ; I have not read it.

Q. By reference to that complaint you find the charge that on said date the liabilities exceeded its assets in the sum of \$115,000 ?

A. Yes, sir.

Q. All of these valuations which show these various deficiencies have been made as of 1874 ?

A. Yes, sir, in regard to these gentlemen.

Q. All of these valuations were made as of July, 1874 ?

A. Yes, sir.

Q. Yours was made as of July 1st, 1874 ?

A. Yes, sir.

Q. So here we have \$225,000 deficiency, \$201,000 deficiency,

\$115,000 deficiency, and \$181,000 deficiency, all as of the same date?

A. You will observe an item in my appraisalment which differs from theirs; the books of the bank are not correctly kept; I put that in, and that made mine large.

Q. On July 1st, 1874, the bank had cash on deposit, did they not?

A. Yes, sir.

Q. One hundred and two thousand dollars?

A. Yes, sir; as near as I can remember.

Q. Can you find in those figures which Mr. Floyd and Mr. Gregory reported a deficiency of \$181,000, if they have got those figures?

A. No, sir; they have not.

Q. Then Mr. Floyd and Mr. Gregory made an error in the first place of \$73,000, and after that was corrected there was still \$102,000 cash in bank that they had not found; is that not so?

A. This is not on the report.

Q. So that from \$181,000 should be deducted \$102,000, according to their own figures?

A. Yes, sir.

Q. Now, is there any thing in that report for office furniture and fixtures?

A. No, sir, there is nothing here.

Q. Is the Goulard judgment in there?

A. No, sir.

Q. There is \$10,000 more, is there not, that should be deducted?

A. Yes, sir.

Q. So that from that valuation of these gentlemen made in August, 1874, for July 1st, 1874, there is \$112,000 besides the \$73,000 which they left out?

A. Yes, sir; \$112,000 from \$181,000.

Q. The whole mistake they made was \$185,000, was it not?

A. Yes, sir.

Q. That didn't indicate that they made a very careful examination, did it?

A. It did not, sir.

Q. Had you discovered these deficiencies at the time you wrote to the governor?

A. Which deficiencies?

Q. Their leaving out \$102,000 cash, and \$12,000 other items?

A. Yes, sir; I discovered all of those.

Q. Did you call the governor's attention to that?

A. No, sir; I told him their statement was not technically correct.

Q. Did you take up the letter to him?

A. No, sir; I didn't take it to him.

Q. You sent it to him?

A. Yes, sir.

Q. All you said to him then is contained in your letter to the governor?

A. Yes, sir.

Q. You sent these figures of theirs showing \$181,000 deficiency?

A. Exact copies of their papers.

Q. Read what you say in your letter to the governor about that?

A. "The details and figures furnished by this report are not critically correct, some items having been omitted, but the amount of the deficiency is very nearly exact."

Q. In order to make it exact, you have to put different values on these from what they put on?

A. I ignored their values entirely.

Q. You had to put different values on these things in order to get the deficiency nearly like theirs; in order to get the deficiency near \$181,000, you had to ignore their values entirely?

A. Yes, sir.

Q. If you knew that \$112,000 should be deducted from the deficiency of \$181,000 that you find, why didn't you call the governor's attention to that?

A. That appears in the papers themselves; there is not a cash item in their account.

Q. Did you call his attention to the fact that the cash item of \$103,000 is left out?

A. No, sir; I told him that some items had been omitted.

Q. "The dates and figures furnished by this report are not critically correct, some items having been omitted, but the amount of the deficiency is very nearly exact." Was that thing calculated to mislead the governor?

A. It was not so intended by me.

Q. You base your letter to the governor on those affidavits which were furnished by Mr. Floyd and Mr. Gregory?

A. And upon my investigation of the books of the concern.

Q. And you find they report a deficiency of only \$181,000?

A. Yes, sir.

Q. And you find a mistake of \$112,000 in that, and you don't call the governor's attention to it in the slightest degree?

A. No, sir.

Q. Then you go on and change these values according to your own notions?

A. No, sir; not according to my notions.

Q. Then you go on and change those values, carry them out on this schedule A, which is attached to the letter to the governor, and you get Mr. Platt to sign this certificate to the effect that he has examined

the schedule hereto annexed, marked exhibit A, and that it includes all the assets of the said institution, and the governor, in alluding to this, calls it a balance sheet made by Mr. Pratt; did you intend to deceive the governor, and lead him to think Mr. Pratt had made this balance sheet himself?

A. No, sir.

Q. It is evident he was deceived by this paper you sent him?

A. I don't know how he could be.

Q. Is it not true when the governor says as the first item of proof which he submits to the senate; the balance sheet made out by Mr. Pratt, and when he says that, is it not evident he was deceived by this paper?

A. Yes, sir.

Q. Is there any thing in your letter that would tend to undeceive him?

A. No, sir; there is nothing bearing on that point.

Q. What use was there in getting the certificate of Mr. Pratt, as to the amount of assets?

A. They didn't differ.

Q. The assets themselves didn't differ from what was reported to the bank department, did they?

A. This was reported in brief and the other in detail.

Q. Did the assets differ from what was written to the bank department?

A. I didn't compare them.

Q. Did the assets differ from what appeared in the affidavits of Mr. Floyd and Mr. Gregory, and other papers submitted at the same time to the governor?

A. Yes, sir.

Q. Except in the Goulard judgment, and except in the cash items?

A. With those exceptions.

Q. And the furniture and the \$102,000 cash items?

A. Yes, sir; those are the only differences.

Q. Was it necessary to get the certificate of Mr. Pratt, the book-keeper, to attach to those to indicate what property the bank had?

A. I thought so.

Q. What possible effect could that certificate, attached to that schedule, have upon the governor, except to deceive and mislead him with your letter?

A. It was not so intended.

Q. Well, it did in fact, didn't it?

A. It would seem so from your construction of it.

Q. You knew that Mr. Floyd and Mr. Gregory were hostile to the balance of the trustees in that bank, did you not?

A. No, sir; I did not.



Q. Didn't you know that in September, 1876?

A. I knew what I read to you from these minutes; I didn't know any of these men except Mr. Conklin.

Q. Didn't you know on October 13th, 1876, that Mr. Floyd and Mr. Gregory were hostile to the balance of the direction of that bank in 1874?

A. No, sir; I didn't know that they were hostile.

Q. They acted in antagonism to them?

A. Yes, sir.

Q. They were off oxen?

A. I should say they were.

Q. And they were criticising their action in every way?

A. Yes, sir.

Q. These reports and the minutes indicate that?

A. Yes, sir.

Q. And you knew these facts?

A. Yes, sir.

Q. And when they made their report, and put their values upon those pieces of property, stocks, bonds and real estate, you knew they were the values of men who were seeking to depreciate the amount of property which the bank owned, did you not?

A. I don't know that I can answer that fairly; I don't know what their object was in doing it.

Q. They put them down very much below what the officers did?

A. Yes, sir.

Q. Very much below what the bank superintendent and examiners put them?

A. I don't know what they put them at.

Q. And you in 1876 take hold and make an investigation as to the value of various stocks and bonds in 1874, and you put them down still lower, do you not?

A. Yes, sir.

Q. You didn't intend to mislead or deceive the governor in regard to this matter?

A. No, sir.

By Mr. McKEON:

Q. How did you make out a deficiency of \$201,000, when you made an examination?

A. I sent to the dealers in the different classes of securities held by the bank, and got from them their prices for these securities as on the 1st of July, 1874.

Q. As they were then selling in the public market?

A. Yes, sir; and extended the whole amounts owned by this bank at those prices.

Q. Did you make any estimate about the real estate?

A. I got the real estate all appraised by different parties.

Q. As of those dates?

A. As of those dates.

Q. And you made your own statement?

A. Yes, sir; I made up my own statement; I am sure it was not for expenses.

Q. But you arrived at over \$200,000 of deficiency in 1874?

A. Yes, sir.

Q. Which was open to every one the same way?

A. Yes, sir; I found partly on the suggestion of the appointed examiner, but before he came there, when he came two or three days after my appointment, he found me engaged in taking off a trial balance from the dealers' ledger, something that had never been done, so that he could tell whether there was a difference between that and the general ledger in which the aggregate amount to depositors was entered; when I got the balance sheet I found that according to the dealers' ledger they owed the depositors something in excess of \$80,000 more than appeared on the general ledger, and as I had already investigated the different books, and found that they had been falsified in the business, so as to cut down the amount of interest credited up, I presume that the two years, from 1874 to 1876, inclusive, here would account for about \$10,000 of that difference, and I therefore estimate \$70,000 as the difference that was due in 1874; there was a difference then.

By Mr. CHAPMAN:

Q. Have you succeeded in getting in all the books of the depositors?

A. Yes, sir.

Q. When did you get in the last?

A. I have not got them all in; there were 500 books that were surrendered and the accounts closed, which appear to be open on the books of the bank, but the pass-books were surrendered as general evidence of their accounts having been closed.

Q. What time did you take possession as receiver?

A. I took formal possession on the 14th of July.

Q. And you made your report to the depositors as of what day?

A. In September.

Q. What time in September?

A. As of the 1st of September.

Q. You had a large number of clerks assisting you there, did you not?

A. Yes, sir.

Q. And you were a month and a half finding out the condition of the bank?

A. Yes, sir.

Q. You and all these assistants worked sometimes ten, eleven and twelve hours a day?

A. Yes, sir, we worked more than that a great many days.

Q. And it took all these assistants and you all this time to get at the condition of this bank?

A. Yes, sir, but I went back to 1852.

Q. To get at the condition of the bank as contained in your report?

A. Yes, sir.

By Mr. McKEON:

Q. You went back to the organization of the bank?

A. Yes, sir.

By Mr. CHAPMAN:

Q. Did it ever occur to you as to what number of banks the superintendent and examiner could go through with, with the same care that you did, in a year?

A. He could not go through with many of them in a year.

*J. W. Gregory*, recalled for further cross-examination:

By Mr. CHAPMAN:

Q. You were one of the committee appointed by the trustees to ascertain whether the expenses of the bank should not be reduced, were you not?

A. I think that is so, to the best of my recollection.

Q. In 1874?

A. Yes, sir.

Q. Was there any authority given you in that resolution to investigate as to the affairs and condition of the bank?

A. I don't think there was.

Q. You went on, you and Mr. Floyd, and made an investigation as to the condition of the bank?

A. Yes, sir.

Q. And you made a report to the bank?

A. Yes, sir.

Q. [Handing paper to witness.] And that is the report, introduced as schedule A, attached to your affidavit?

A. Yes, sir; that is my signature.

Q. Whose handwriting is that report in?

A. I believe that is Mr. Floyd's.

Q. There is an erasure and an interlineation there, is there not ?

A. Yes, sir ; there seems to be.

Q. Different ink ?

A. Not that I am aware of.

Q. Darker ink, is it not ?

A. It may be ; I think it was done in the bank.

Q. After you made the report ?

A. That is the best of my recollection.

Q. And this on the margin was put in after the making of the report ?

A. At the time it was being made.

Q. You discovered you had \$73,000 charged in there twice ?

A. It was a mistake in asking the amount of interest due, to the best of my recollection.

Q. And you got your \$73,000 in twice ?

A. Yes, sir ; in that way.

Q. You reported in the first place to the bank a deficiency of \$255,000, did you not ?

A. Yes, sir ; I believe that is correct.

Q. After making this correction it reduced it to \$181,000 ?

A. Somewhere thereabouts, I believe that was about the thing.

Q. And in this report you repeat that you very carefully examined and considered the condition of the bank ?

A. Yes, sir.

Q. Here is one item you had overlooked, the \$73,000, in your report ?

A. No, sir ; I don't think I did.

Q. You got it in twice ?

A. We got it in from misapprehension.

Q. You got it in twice, in fact ?

A. So it seems.

Q. And after your attention was called to it in the board this correction was made by Mr. Floyd ?

A. I think I discovered it myself when the report was being made.

Q. When you were reading it ?

A. I could not recollect.

Q. You said you discovered it when the report was being made ?

A. I believe so.

Q. After making that correction you found a deficiency of \$181,000 ?

A. If that is the amount, I think that is a mistake ; I ain't positive about it, because I have forgotten it.

Q. Here is an affidavit made the 12th of October, 1876 ?

A. Yes, sir.

Q. To that is attached a schedule showing the assets and liabilities of the bank to July 1st, 1874?

A. Yes, sir; I cannot say to July 1st.

Q. [Handing affidavit to witness.] Look at it; is it not your affidavit; "in or about the month of July, 1874?"

A. Yes, sir.

Q. That on the 13th day of July you made an examination?

A. That is so; I had forgotten, as far as my memory is concerned.

Q. And you examined to see whether they ought to have paid the dividend to July 31st, 1874?

A. I believe I did.

Q. By this, after having made a correction of \$73,000, you then find a deficiency of \$181,000, and report that to the bank, do you?

A. I presume that is so; my memory is not sufficient to recollect it.

Q. You can tell by these figures?

A. That is probably correct.

Q. You made these valuations as you thought they fairly should be made, did you?

A. I did.

Q. Did you make careful investigations in regard to the value of these securities?

A. I did; careful investigation.

Q. Now you found the deficiency of \$181,000; will you tell me where you put in the item of \$102,000, whether the bank had the cash?

A. I don't know that they had it.

Q. Did you give them credit for it?

A. I presume I did.

Q. Will you show me where it is in here?

A. I don't know that it is in here.

Q. Don't you know that it is in there?

A. I do not.

Q. Don't you know that when you called Mr. Reid's and Mr. Ellis' attention to these figures that they told you that they had left out all the cash the bank had, \$102,000?

A. No, sir.

Q. The fact is it was left out?

A. I don't know.

Q. [Handing report to witness.] Look at this report and see whether this \$102,000 of cash is left out?

A. I don't know that it is in there; I know all the cash was put in the report, in one way or another, up to the 31st of June, and the cash that was then on hand, was not on hand, probably; it might have been something else.

Q. From the 31st of June to July 1st, how much difference would there be in cash ?

A. There would be a difference.

Q. Did you report any cash to the bank ?

A. I am not positive; I don't know; I believe I had all the assets of the bank altogether.

Q. See if you can find the \$102,000 of cash ?

A. If I have not, they had not it.

Q. Find any cash anywhere in that report that that bank had ?

A. I don't see any cash mentioned here, particularly, that I see; I cannot tell you exactly how I made it out.

Q. Can you find the Goulard judgment among the assets ?

A. I suppose that was put in; no, no doubt it was in.

Q. Can you find it ?

A. "Five thousand, E. Goulard,"

Q. Is it carried out at all ?

A. I don't know.

A. Look at the items and you will see it is not carried out; you were bearing this bank at this time ?

A. No, sir; I never bore it, I rather helped it.

Q. Is it carried out ?

A. In bonds and mortgages, probably; that is the amount of the indebtedness.

Q. Your account of the bonds and mortgages corresponds with all the other papers, so it is not in there ?

A. The items are put in for the amount as I understand it.

Q. Can you tell whether the Goulard judgment is carried out, or not ?

A. No, sir.

Q. Is there any thing in there for furniture and fixtures ?

A. No, sir; I don't see any thing.

Q. The bank owned some ?

A. Yes, sir; and it never has been collected into the assets.

Q. It was the property the bank owned, was it not ?

A. Of course it was, but it was an article that was put in with the property of the bank; that is the way we put it in.

Q. You didn't put it in with this property of the bank ?

A. Yes, sir; that was included.

Q. Will you show it to me ?

A. The bank building includes the furniture; that is what I mean.

Q. The banking-house you put in at \$65,725; that includes the furniture and fixtures, does it ?

A. That is what I consider.

Q. It cost \$65,725 as you reported ?

A. That is the way they had it on the books.

Q. Tell me the cost of the furniture and fixtures?

A. I could not say.

Q. Do you say the cost of the furniture and fixtures is put into that item of \$65,725?

A. That is what I intended.

Q. What was the cost of the building?

A. I cannot tell you exactly, but I can tell you in the neighborhood; in the first place I think it was \$25,000.

Q. Don't you know that the banking building appears on your bank books as costing \$79,000?

A. I don't recollect; it is not the cost of it.

Q. Do your books show it?

A. I could not tell you.

Q. Can you tell me the cost of that bank building?

A. I can tell you very near.

Q. How near?

A. I will say \$16,000 and \$29,000; I think that is the amount that was paid for it.

Q. Forty-five thousand dollars?

A. And fixtures, etc., a little more.

Q. Now, you swear that you returned the cost of that bank building and fixtures at \$65,725?

A. I understand you.

Q. And you say the bank building cost \$45,000, and you returned the furniture and fixtures at \$20,000?

A. I didn't return that at all; I included all together the amount.

Q. Do you say the \$65,725 includes the cost of the building and the cost of the furniture and fixtures; do you swear to that?

A. To the best of my ability; I never handled the books, and don't know any thing about them.

Q. Do you swear that the market value of the bank building and furniture and fixtures together cost only \$65,000?

A. That I should judge to be correct.

Q. The market value?

A. So far — that is, at that time — I suppose it was; that is, I put it at that probably on my judgment; afterward I inquired particularly as to it, and some had put it higher than that; those that were acquainted with it.

Q. After that?

A. Yes, sir; but I put it whatever the amount is there as of my own value.

Q. You meant to say that in that report to the bank you returned

the bank property as worth only \$45,000 in 1874; do you wish the committee to understand that ?

A. No, sir.

Q. You put in that and the furniture at \$65,725 ?

A. I didn't name any furniture.

Q. Was the furniture in ?

A. That is what I conceive that to be worth.

Q. What ?

A. The amount that I put it in there.

Q. What conceive to be worth ?

A. The bank and the fixtures that were in it ; we never had taken a separate account of them.

Q. How much did you consider the bank property to be worth at that time ?

A. I never had any other opinion in regard to it than what I put down there at the time, including what the bank cost, and the fixtures and other expenses.

Q. In your report to the bank when you say "the banking-house cost value and market value, \$65,725," you mean the banking-house and furniture and fixtures therein ; do we understand that so ?

A. that is the way I understood it; that is the way I meant to have it at any rate; that is to the best of my recollection; I cannot tell you exactly what I thought at the time; it is sometime ago and I have not charged my mind with it.

Q. Was not the actual cost of that banking-house \$66,725 ?

A. I think not; that is the best of my opinion.

Q. You swore to a complaint, did you not, at sometime ?

A. At sometime I presume I did ; I have forgotten at what time it was.

Q. [Handing paper to witness.] Look over those papers and see whether those are copies of those you swore to ?

A. I could not tell you.

Q. Look at them and see your signature and see where you swore to them, and say whether you swore to them or not.

A. Yes, sir.

Q. That is signed by Mr. Floyd ?

A. Yes, sir.

Q. Now, we will turn over here and find another signed by Mr. Floyd, and then one signed and sworn to by you before George C. Hall, notary public, that is a fact, is it not, in which you swore to the truth of this complaint ?

A. To the best of my knowledge and belief; I presume that is the one; I don't know.



Q. Having sworn to the complaint, will you read the actual cost of the banking-house there, \$66,725 ?

A. That I think I took from the books.

Q. It appears from your books, \$79,000, you swore that this complaint is true, and that the actual cost is \$66,725, did you not ?

A. If that is my affidavit, whatever is there I suppose is correct ; I don't pretend to tell any thing that is wrong.

Q. I assume not, but this is sometime ago, is it not ?

A. Yes, sir.

Q. And your recollection may not be entirely correct ?

A. I could not recollect now.

Q. And where you state your recollection of facts transpiring between you and Mr. Ellis and Mr. Reid, they may be correct and you may possibly be mistaken ?

A. How is that ?

Q. Wherever you stated as to what occurred between you and Mr. Ellis and Mr. Reid, being a mere matter of recollection, it is sometime ago, and you may as well be mistaken about that as them ?

A. I took down from the memorandum of the conversation I had with Mr. Ellis, and consequently that is not a belief ; I recollect that.

Q. When you swore in this complaint that the actual cost of this building was \$66,725, did you include the furniture in that ?

A. That was included in my own mind ; that is altogether ; we had never taken an account.

Q. Did you take into account the valuation of the furniture in the President and Van Brunt street house when you gave the value of that ?

A. I didn't know the bank owned any furniture there ; there never had been any account taken of the furniture in the bank, connected with the bank ; we always called the bank worth so much ; it was never a separate item in my own mind ; I was trying to get as near as possible, honestly, how our bank stood ; that was my object, and nothing else.

Q. In your affidavit attached to this complaint, did you swear :

"The said complaint, and each and every part stated therein, is true to my knowledge" ?

A. I could not tell you now, to save my life, whether that is true or not.

Q. Read it ?

A. "Except the fact stated in the third paragraph of the complaint," etc.

Q. Now, turn back to the third paragraph and you will see it is not the one I have been examining you about ?

A. Knowledge and belief.

Q. When you swore the actual cost of the banking-house was \$66,-725, did you mean that?

A. I meant that that is what it was placed on the books, or equivalent to what it was worth.

Q. Do you mean that that was what was placed on the books?

A. I presume so.

Q. Didn't you hear Mr. Best say it appeared on the books, the cost as \$79,000?

A. I heard him say so.

Q. Is there any doubt about that?

A. There have been other prices placed on it.

Q. Is it placed on the book anywhere \$65,000?

A. I think I have.

Q. And you have seen it \$66,000, and \$79,000?

A. I think I have seen it less than that on the books; that is my impression; I think I have seen it all the way from \$46,000 to \$47,000 up to \$100,000.

Q. You are swearing as of the condition, July 1st, 1874?

A. Or thereabouts.

Q. Now, after this examination, do you say, to this committee, that you believe that in your report to the bank you included the furniture and fixtures of the bank in your valuation of the banking-house at \$65,725; do you still think the furniture and fixtures were included in that cost and market value?

A. In my own mind I believe that to be the truth, that what is in there was considered worth that; I cannot tell you what I thought then, to save my life.

Q. I understand you to say you never saw Mr. Ellis, after the time you met him here at the Metropolitan hotel?

A. Not to my recollection.

Q. That is just after he made his examination?

A. That is just after he had finished his examination; that is the last time I saw him, except when I saw him here the other day.

By Mr. McKEON:

Q. Do you recollect that the expenses of the bank committee were charged in the expenses of the bank for the building?

A. I think it was.

Q. Do you know how much that was?

A. No, sir.

Q. Do you know the balance of old bank account was charged to it?

A. I don't know that of my own knowledge, but my impression is, there was something of that kind.

Q. Do you recollect Mr. Fenn, who figures in the minutes here, was paid a commission for buying the lot ?

A. Yes, sir.

*George W. Reid*, a witness, being recalled, further testifies :

By Mr. CHAPMAN :

Q. You are at present the examiner of the bank department ?

A. Yes, sir.

Q. When were you appointed as such ?

A. In November, 1871.

Q. Under the former superintendent ?

A. Yes, sir ; Mr. Howell.

Q. You have remained as bank examiner from that time until the present ?

A. Yes, sir, I have had full charge of it during the past four years ; previous to that I was assistant.

By Senator ST. JOHN :

Q. You are the only one ?

A. I am the only one.

By Mr. CHAPMAN :

Q. You are the only regular examiner ; are there some special examiners ?

A. Very few.

Q. Will you look at this report and see whether that is a report of yours of an examination made to Mr. Ellis ?

A. Yes, sir.

Q. Made as of what date ?

A. October 5th we commenced the examination, 1874.

Q. Those are your figures attached to the report ?

A. Yes, sir, that is my report.

Counsel for the superintendent offers the papers in evidence in the words and figures following :

“Hon. D. C. ELLIS,

*“ Superintendent Bank Department :*

“ Having, at your request, examined into the condition of the Mechanics and Traders’ Savings Institution of New York, I annex statement showing deficiency of assets of \$30,071.90.\*

“ The state of Alabama suspended payment of interest last Janu-

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\* Less judgment against E. Goulard, \$5,000 ; making deficiency \$24,981.90.

ary, and as it is uncertain when it will resume, it is almost impossible to ascertain the value of bonds, there being no sales at present; but from the best information attainable they are estimated at 50 per cent. The other bonds are put in at the present quotations.

“The annual deficiency of income is estimated at present rate at \$14,191.82.

“Respectfully submitted.

“GEORGE W. REID.

“Examined October 5, 1874, and subsequent days.”

*Examined October 5, 1874, and subsequent days.*

INVESTMENTS.	Rate of Interest	Amount at par.		Totals.
Bonds and mortgages.....	7	.....	.....	\$732, 650 00
Tennessee State bonds .....	6	\$168,000 00	58½	\$98,280 00
Alabama State bonds .....	8	166,000 00	50	83,000 00
Gram for mortgages, Enfant R. R .....	.....	.....	.....	.....
North Carolina .....	6	114,600 00	30	34,380 00
South Carolina.....	6	155,000 00	17	26,350 00
New York City .....	6	40,000 00	100	40,000 00
New York City .....	7	275,000 00	100	275,000 00
Brooklyn City Post.....	7	240,000 00	103½	247,800 00
Brooklyn City Wallabout.....	7	10,000 00	102½	10,225 00
Buffalo City .....	7	130,000 00	100	130,000 00
Rochester City.....	7	256,000 00	100	256,000 00
Oswego City.....	7	197,000 00	100	197,000 00
Westchester County .....	7	10,000 00	.....	10,000 00
Yonkers Town.....	7	21,000 00	100	21,000 00
Morrisania Town.....	.....	3,000 00	100	3,000 00
Banking House .....	.....	.....	.....	1,432,035 00
Two houses in Brooklyn .....	.....	.....	.....	100,000 00
One house in East 45th street, New York .....	.....	.....	.....	30,000 00
Suspense account, Balance Bankruptcy claim .....	.....	.....	.....	16,000 00
Cash in vault .....	.....	.....	.....	10,000 00
Cash in Chatham N. bank .....	.....	.....	.....	.....
Cash in Oriental bank .....	4	.....	.....	.....
			\$12,000 00	.....
			7,792 58	.....
			14,975 24	.....
				34,767 82

INVESTMENTS.	Rate of interest.	Amount at par.		Totals.
Interest accrued.....	....	.....	.....	\$47,077 00
Deficiency of assets *	....	.....	.....	30,071 90
				<u>\$2,432,594 72</u>
Due depositors.....	....	.....	\$2,396,594 72	
Interest accrued.....	....	.....	36,000 00	
				<u>\$2,432,594 72</u>

\* Less judgment against L. Goulard, \$5,198; leaving the deficiency \$24,961.90.

*Examination resumed :*

Q. Do you remember how long you were making the examination ?

A. I do not ; it was a number of days ; we were there two days certainly, and then we came after for some additional work — some four or five days.

Q. Were you not there a week or ten days altogether getting the information and making the examination ?

A. I should say we were fully a week.

Q. As to the character of your examination, did you make a thorough and critical examination ?

A. Yes, sir.

Q. As the result of that examination I see you make a deficiency of 24,000 and odd dollars ; that was the result of your examination after obtaining the valuations which you affixed to those securities ?

A. Yes, sir ; if the bank was to go on ; if the bank should be closed it would be different.

Q. You say it would be different ; what do you mean ; if the bank were to be thrown into the hands of a receiver ?

A. Then the item for liability, interest \$36,000, would not go in — would not be a liability.

Q. What is the effect of throwing a bank into the hands of a receiver upon the depositors ?

A. Then there is no interest allowed after the last dividend ; but here I made an estimate of accrued interest since the last dividend day ; if the bank goes into the hands of the receiver that is not allowed.

Q. Then the interest that you allude to is interest due the depositors ?

A. Due to the depositors.

Q. Suppose that bank should have been closed up on that day, what would have been the deficiency ?

A. Then there would have been a surplus of \$11,018.10.

Q. Because the depositors would have no right to draw interest except —

A. On the declaration of a dividend by the trustees.

Q. That is the half yearly dividend on the 1st of January and the 1st of July ?

A. Yes, sir ; there would be no interest allowed until the next dividend was declared.

Q. So that if, at the time of this examination, you were making it for the purpose of closing up the bank, the depositors would not have been entitled to interest from July 1st, and the amount of liabilities would have been thereby lessened \$36,000 ?

A. Yes, sir.

Q. And the bank would then have been solvent \$11,000 ?

A. Yes, sir.

Q. Had a surplus of \$11,000?

A. Yes, sir; a surplus of \$11,000.

Q. Will you tell the committee what the effect would have been upon depositors if the bank had been thrown into the hands of a receiver?

A. In what respect?

Q. Is it a beneficial effect or otherwise?

A. It is very injurious.

Q. Most disastrous to them, is it not?

A. Yes, sir; in every case where a bank has been thrown into the hands of a receiver they have lost.

Q. Even if a bank were barely solvent and it was thrown into the hands of a receiver, would it not be very injurious to the depositors?

A. Very, indeed; large losses would have accrued on account of forcing the securities upon the market and turning them into money and paying the depositors.

Q. Are there not additional expenses?

A. Yes, sir; receiver's expenses; lawyer's expenses; in various ways expenses are largely increased.

Q. Prior to the time when Mr. Ellis was superintendent, was it the policy of the department, so far as you know, to throw a bank into the hands of receivers, unless it seemed to be hopelessly insolvent?

A. Yes, sir.

Q. It was the policy to throw it into the hands of receivers?

A. No, sir; not to.

Q. Depositors were the persons to be injured by throwing it into the hands of receivers?

A. Yes, sir.

Q. In regard to the valuations by which you ascertain the deficiency, whether a deficiency exists depends entirely upon the amount of values that you fix to the various items of assets?

A. Yes, sir.

Q. Does your examination show an actual deficiency or a constructive deficiency where you find one?

A. A constructive deficiency only, upon the estimate that we put upon the securities.

Q. The amount of the deficiency or surplus in each case depends upon the opinion you may have as to the value of the securities at the time of the examination?

A. Yes, sir.

Q. Is there any such a thing attainable as an actual mathematical deficiency or surplus?

A. Not where it is so near balancing as this was.

Q. Could you then get at the exact value?



A. No, sir; not the exact value.

Q. In ascertaining these valuations in many instances, or in any instance, how do you go to work?

A. To go through, do you mean?

Q. Yes?

A. When I commence a bank the first thing is to count the cash — the cash on hand in the bank, and then I get certificates of deposit of the amount of cash deposited in various other banks; then I take the various securities, governments, State bonds, etc., and take a list of them and see whether they appear on their books, and then I ascertain the market value.

Q. You go through the securities one by one?

A. Yes, sir, every one.

By Senator WELLMAN:

Q. You verify the amount?

Q. Yes, sir, I verify the amount.

By Mr. CHAPMAN:

Q. You examine the securities — handle them yourself?

A. Yes, sir; handle them all, and very frequently test the numbers as registered in the books of the bank; then I take the governments and securities that are sold on the market and get the latest sales as reported; then where there have been no sales reported I take the bids and offers, and if there are very few sales of those stocks, I usually take the average, unless I can get at it nearer; if I can ascertain there have been sales within a few days or few weeks, I frequently take the last sales; then I examine the books of the bank to see what the banking-house is valued at and any securities they may have; sometimes I exercise a discretion in regard to the value of the banking-house, if I find out in some cases, as I frequently do in the case of a wealthy bank, their estimate is very low on the books, I mark it up nearer; or if I can ascertain that the value of the bank as put on the books is much larger than I think it ought to be, I generally get it down as near as I think the banking-house is worth to the bank — not what it would sell for a forced sale, but what it is worth to the bank; that generally includes the furniture and fixtures — that is generally included in the value of the banking-house; if they have no banking-house, of course, I put it down as a separate item.

By the CHAIRMAN:

Q. You mean the furniture?

A. Yes, sir; the furniture and safe that I generally value as near as I can get at it.

By Mr. CHAPMAN:

Q. Is not the furniture generally charged to profit and loss?

A. Yes, sir.

Q. It is not with the banking-house?

A. What I mean is that I do not make separate items.

Q. You do not give them credit for the furniture and fixtures in these examinations?

A. No, sir; not at all.

Q. Did you pursue this course in regard to the assets of this bank at the time you made this examination.

A. Yes, sir.

Q. You and Mr. Ellis jointly?

A. Yes, sir; I went through and made out my list and where there was a doubt — where we had any doubt as to the value of the securities, we ascertained them as we could afterward.

Q. Do you recollect of going with Mr. Ellis to consult with any parties in regard to any of these securities?

A. Yes, sir; we went down to the Manhattan Bank and consulted the president and cashier with regard to the Alabamas; I am not certain about what we said about the others, but the Alabamas particularly were not on the market, and there were very few sales, if any.

Q. Did you go out whilst you and Mr. Ellis were there in consultation with these gentlemen to see parties to whom you were recommended by the president of the Manhattan Bank, to ascertain the value of these securities?

A. Yes, sir.

Q. These southern securities?

A. The Alabamas — I am not certain about the others.

Q. You do not recollect one way or an other about the others?

A. No, sir.

Q. You came back and reported?

A. Yes, sir.

Q. To Mr. Ellis?

A. Yes, sir.

Q. Mr. Ellis was still there?

A. Yes, sir.

Q. Was the matter made a subject of consultation between all of you?

A. Yes, sir.

Q. As to the value to be fixed to the Alabamas at least?

A. Yes, sir.

Q. Do you recollect the value of the other southern securities was talked over by you, and the amount fixed upon them there in the bank?

A. Yes, sir.

Q. Is the Manhattan Bank a savings institution?

A. No, sir; it is a bank of discount and deposit.

Q. A State bank?

A. Yes, sir.

Q. This gentleman had no interest in this bank one way or the other, so far as you know?

A. No, sir.

Q. How did you ascertain the value of the municipal bonds?

A. I do not remember; I generally keep a run of them myself living here in this city, and it is so with almost all of the common banks, and having occasion to go through the States, I know.

Q. You know the value of most of these on this list?

A. Yes, sir.

Q. And did at the time?

A. Yes, sir.

Q. Were those values which you have affixed to these securities conservative valuations, or were they inflated?

A. They were not inflated; I considered them a fair valuation at the time I made my examination in every respect.

Q. What is this item of "suspense account," how did you get at the value of that?

A. Yes, sir; that is an old bankruptcy claim; in one of the first examinations, in 1872, that was estimated at \$40,000; in 1874, in my examination, in March, I think I got that down to \$20,000; I am not certain whether it was \$10,000 or \$20,000.

Q. It was \$21,000?

A. Perhaps it was; this time I put it down at \$10,000; it having continued for a long time without payment, I considered it was doubtful.

Q. Don't you recollect that Mr. Ellis himself suggested—that this matter was discussed, and that he suggested that it be put down at \$10,000?

A. I think he did.

Q. Were there some papers shown, or some inquiry made, which led you to think that there was at least that value to it?

A. There were letters shown us.

Q. From the receiver?

A. From the receiver; I think it was estimated at considerably more than this.

Q. As much as fifty cents on the dollar?

A. I think so.

Q. But Mr. Ellis said not to put it down for more than \$10,000?

A. Yes, sir.

Q. Did you make any inquiry yourself in regard to the value of the

real estate owned by the bank, or did Mr. Ellis do that on behalf of you?

A. I do not think I did; I relied more upon my former estimate and the general run of real estate.

Q. You had a pretty good information of the value of real estate, living as you did here in the city and making this examination in different parts of the city?

A. Yes, sir.

Q. And your estimate was, that \$100,000 was a fair valuation?

A. Yes, sir; a fair valuation for the purposes of the bank.

Q. The bonds and mortgages amounting to \$732,650 — you examined them yourself?

A. Yes, sir; every one of them; I had the list of them that I had a year or two previous, and I checked them off with this list, to see they were there; I had examined them critically previous to that, one year.

Q. On these conservative valuations which you put upon these securities you found a constructive deficiency of only about one per cent?

A. Just about one per cent with the accrued interest due depositors.

Q. You credited the depositors with that?

A. Yes, sir.

Q. And charged the bank with it as a liability?

A. Yes, sir; the bank with it as a liability.

Q. Was there any reason in that valuation why that deficiency could not have been readily made up by an appreciation of the value of the securities?

A. No, sir.

Q. In a very short time it was possible?

A. Yes, sir, as it turned out afterward.

Q. Did it turn out that this deficiency was wiped out by the increase in the values of the securities before the 1st of January following?

A. Yes, sir.

Q. Can you give me readily the amount of the municipal bonds which were ranging from par and above at that time?

A. The New York city bonds.

Q. The whole of the municipal bonds, \$1,100,000, or near \$1,200,000, which were ranging at par and above?

A. There were over a million.

Q. Was there not \$1,200,000?

A. Yes, sir; just about \$1,200,000.

Q. Do you know that those bonds appreciated in value quite rapidly after that?

A. Yes, sir, they did.

Q. A rise of two per cent in the value of those bonds would wipe out this deficiency entirely, would it not — these municipal bonds alone — though the other bonds remained about the same ?

A. Yes, sir.

Q. Do you know if those Tennessee State bonds sold as high as 65 ?

A. Only from what I understood.

Q. Which you had valued at 58½ ?

A. Yes, sir ; I know they were quoted in the market after that, if I recollect aright, at about 65.

Q. Was that about the 1st of January ?

A. About the latter part of December.

Q. Do you know the fact that North Carolinas, South Carolinas were quoted in the market as valued by Mr. Gregory, one of these complainants, at about what you put them at ?

A. Only what I have heard.

Q. Do not the minutes of the board of directors allude to it ?

A. Yes, sir ; that is all I know.

Q. They kept pretty well up, did they not ?

A. Yes, sir ; \$720 was the only difference between what Mr. Gregory stated in the board and my valuation ; I called it \$60,720 and he called it \$60,000.

Q. Now in regard to the Alabamas ; from the time of your examination down to the 1st of January, what did you learn as to whether they were quoted or not ?

A. I do not remember as there were any quotations.

Q. You fixed the value of Alabamas at 50 per cent from all the investigations you could make there, in consultation with these gentlemen in the Manhattan Bank ?

A. Yes, sir ; and the gentlemen they referred me to and whom I went to see.

Q. You went to see the gentlemen to whom they referred you and got their estimate, and you jointly fixed upon that value as the fair valuation of them ?

A. Yes, sir.

Q. Did you ascertain that the latest sales you could find reported had been 90 ?

A. That was sometime previous to that.

Q. But the latest sales you could find ?

A. Yes, sir ; I do not know that I found any sales after that.

By Senator ST. JOHN :

Q. How long ago was that ?

A. It was the spring previous — perhaps it may have been six

months previous; in July they stopped paying interest, and that, of course, knocked the bonds down.

By Mr. CHAPMAN.

Q. You ascertained from the examination there, that Mr. Floyd and Mr. Gregory were antagonistic to those directors of the bank?

A. I always understood that; I did not see either of the gentlemen at that time.

Q. You understood that at that time?

A. Yes, sir; it was notorious.

Q. Is it an uncommon thing for complaints to be made by persons connected with banks and which have no merit in them?

A. I very seldom find these complaints made, but I have known two or three cases, and the result was that the complaints amounted to nothing; it was some personal feeling.

Q. Now, before you made this examination, did you have any talk with Mr. Floyd or Mr. Gregory?

A. I do not know as I met either of those gentlemen.

Q. I will ask you if you do not remember of Mr. Ellis seeing Mr. Floyd and Mr. Gregory?

A. No, sir; I think Mr. Ellis saw them alone; I have no recollection of ever seeing them.

Q. I will ask you whether in looking over this statement of the assets which they claim they had found the bank had, and reported to the bank, they had left the cash out entirely, \$102,000, and whether Mr. Ellis —

A. I do not know any thing about that, except what I have heard here to-day.

Q. When did you make the next examination of the bank?

A. The latter part, I think it was, of March, 1876, in my regular course of examination.

Q. Your biennial examination?

A. Yes, sir.

Q. In the meantime, had you called in to see the officers of the bank, to inquire into their condition, and what they were doing?

A. Yes, sir; frequently.

Q. How was it reported to you they were getting along?

A. They were doing very well.

Q. Was your attention directed to any thing that led you to think they were not doing well?

A. No, sir; there was nothing that I saw or heard.

Q. By virtue of the act of 1875, they were not required to make a report to the department in July, 1875?

A. No, sir.

Q. When they reported in January, 1875, they reported a surplus of about \$60,000 ?

A. I think they did,

Q. I will ask whether, assuming that the times had changed, and instead of securities depreciating in value they had gone the other way — if good times had come January 1st, 1875, whether, in your opinion, there is any doubt of the possibility of the bank succeeding ?

A. That would depend upon the depreciation of the Alabamas.

Q. Suppose good times had come ?

A. They probably would have recovered.

Q. In spite of any depreciation in the Alabamas ?

A. Yes, sir.

Q. It would have been decidedly for the interest of the depositors ?

A. There is no doubt about it ; at the time finding so small a depreciation, with an apparent deficiency of only one per cent, the matter was talked over by us, and we thought it would be a great hardship to the depositors to close the bank at that time on that slight depreciation.

Q. And that was decided upon as matter of policy ?

A. Yes, sir.

Q. And this was at a time a deficiency appeared ?

A. At the time, yes, sir.

Q. Before the superintendent made a requisition ?

A. Yes, sir ; before we left the bank.

Q. Is there any thing in the law which requires a small deficiency to be reported to the attorney-general, to your knowledge ?

A. I think not.

Q. It is left to the wise discretion of the superintendent as to what is best for the depositors ?

A. The examination is reported to the superintendent, and it is left for him as to what course to take.

Q. For him to decide as to what is the best interest for the depositors ?

A. Yes, sir.

Q. Did the bank officers at that time — at least a majority of them — complain that you had put their securities too low ?

A. I think they did ; I think some of the southern securities.

Q. Were you informed by the president of the bank that he had invested a large sum of money in this property for his niece, as trustee for his niece, if he had not personally ?

A. I don't recollect that.

Q. I will ask you whether you recollect that the secretary himself had personally invested some \$20,000 of his own money in them ?

A. I do not recollect, and if I knew it I have forgotten it.

By Mr. McKEON :

Q. How long have you lived in New York ?

A. I moved here in 1846.

Q. Have you ever dealt in real estate ?

A. No, sir.

Q. Were you in any business here ?

A. Yes, sir.

Q. What business ?

A. When I first came down I was engaged ; I was one of the firm of Russ & Reid in laying the pavement on Broadway.

Q. In what business ?

A. The Russ & Reid pavement.

Q. You had a contract with the city of New York ?

A. Yes, sir, a contract with the city ; I never owned any real estate here except the house I live in, which I bought afterward.

Q. Were you ever connected with a bank before you went into this position ?

A. Yes, sir.

Q. What was it ?

A. The Bank of Lansingburgh ; I was teller.

Q. When was that ?

A. From 1834 to 1844 ; ten years.

Q. You came down here, and were you connected with any bank here ?

A. No, sir.

Q. Were you in any mercantile business here ?

A. No, sir.

Q. How long were you in the Russ pavement business ?

A. Until 1854, in the fall.

Q. When did Russ die ?

A. He died two or three years afterward, I should think.

Q. After 1854 what business were you in ?

A. I was a clerk in various positions.

Q. Were you connected with any bank ?

A. No, sir ; I answered before that I was not.

Q. I mean so as to give you an insight into the affairs of banks ?

A. No, sir ; except my general knowledge of banking operations.

Q. Did you ever have any operations in stocks ?

A. I did at one time, a year or two after I first came ; I bought a few thousand dollars' worth of stocks, but not since then.

Q. You are not familiar with operations of Wall street ?

A. No, sir ; except what I saw in the papers ; I am not engaged in stock gambling at all.



Q. You have to investigate all the banks here?

A. All the banks in this State.

Q. All the banks in this State?

A. Yes, sir; all the banks in the State.

Q. How many of them?

A. One hundred and fifty are reported; it is generally about 155 to 158.

By Mr. CHAPMAN:

Q. That is savings banks?

A. Yes, sir.

By Mr. McKEON:

Q. Have you any thing to do with the other banks?

A. With trust companies and State banks where it is necessary to have special examinations.

Q. You have of all savings banks?

A. Yes, sir; I have of all savings banks and all trust companies.

Q. In 1871 did you give a value to their banking establishment—the Mechanics and Traders'?

A. I did not; Mr. Keyes had charge of the examination at that time; that was left with him entirely.

Q. You did not do it?

A. No, sir.

Q. You knew nothing of the value of it in 1871?

A. No, sir.

Q. Each year do you look at the value of the bank building?

A. Yes, sir.

Q. Do you know what the value of that building was in 1871?

A. I had nothing to do with it then, as I left it with Mr. Keyes when he had charge.

Q. Take 1872—do you recollect that?

A. I mean 1870; our first examination was in March, 1870.

Q. Do you recollect the value then?

A. No, sir; that was the time that Mr. Keyes had charge.

Q. Do you recollect when the panic took place in New York?

A. Yes, sir.

Q. When was it, 1873?

A. 1873—September, 1873.

Q. Did not every thing go down with a run?

A. Not real estate.

Q. Did not real estate go as well as the rest?

A. No, sir; not for a year or so after.

Q. How much did real estate fall in 1872?

A. I do not know as it fell any.

Q. Do you know whether it fell in 1873?

A. Not much.

Q. Did it fall in 1874?

A. I should think it did, toward the close.

Q. What was the ratio of depreciation then?

A. It varied according to location in many instances; 50 per cent; in 1874 I speak of now.

Q. Below Fourteenth street, on the main streets, Broadway and Bowery, what was the depreciation?

A. I am not an expert in real estate.

Q. Then you don't know any thing of the value of real estate?

A. No, sir; only as I hear it stated.

Q. To whom did you go to inquire about the value of the bank building?

A. I do not know.

Q. Name any man — did you go to Homer Morgan?

A. No, sir.

Q. Did you go to Ludlow?

A. I did not go to any of those real estate men.

Q. Did you go to any leading man in real estate?

A. I do not know as I did.

Q. Now, in regard to these securities, the municipal bonds turned out very well; it appears you found a large amount of southern securities; do you know whether any of those States had defaulted in their interest in October 1874?

A. Yes, sir; they had, I think, all.

Q. All these had?

A. Yes, sir.

Q. What effect had that upon the stocks?

A. It knocked them down from 70 or 90 per cent to the value they were then as I put them down here.

Q. Did you think it was a safe investment of money to put it into southern stock?

A. I would not have done it; I have been opposed always to it.

Q. Did you not expostulate with these officers?

A. Yes, sir; but these gentlemen used to think that I had nothing to do with that.

Q. Did you tell them they ought to be sold?

A. I had no power to do that.

Q. In your judgment, these southern securities were very bad securities?

A. I always thought so.

Q. And who did you go to to inquire about the value of South Carolina securities?

A. I do not remember.

Q. To whom did you go to to inquire about North Carolina?

A. I do not remember.

Q. To whom did you go for the Tennessees?

A. To the market quotations.

Q. You are sure of that?

A. Yes, sir.

Q. Now, in regard to Alabamas — to whom did you go for them?

A. I don't remember.

Q. You went to the Manhattan Bank?

A. Yes, sir.

Q. To whom, in the Manhattan Bank.

A. Mr. Morrison mentioned a firm of brokers.

Q. Who is Morrison?

A. He is the president of the Manhattan Bank.

Q. He mentioned the concern?

A. Yes.

Q. Who was it?

A. I don't remember; it was a firm of brokers, I think, or foreign billholders, or some thing of that kind — dealers in foreign exchange, I think, they were.

Q. More than one did you go to?

A. No; I think I went to but one.

Q. You cannot mention the name?

A. No, sir.

Q. Do you keep files of papers containing the official quotations of the Stock Exchange?

A. No; I always find them at the bank.

Q. Did you look at the quotations to see how Alabamas were quoted?

A. I don't remember; as near as I recollect, the last quotation was about 30 bid, and 70 asked; I think that was the last information I had about them.

Q. Can you give me any idea of the day when that quotation was made?

A. I cannot; this gentleman I went to stated that he had control of a large amount of these Alabama bonds for foreign bondholders, and from all the information he could get and seeing people, he was advising his correspondents not to sell, but to hold them; and from the information I got from them and Mr. Morrison — I don't remember any one else — we thought that to split the difference between the quotations would be about fair.

By Senator ST. JOHN :

Q. They have not paid any interest since ?

A. No, sir.

By Mr. McKEON :

Q. Do you know what kind of bonds these Alabamas were that you inquired about ?

A. They were given for a railroad to Chattanooga, I think ; I am not certain.

By Mr. CHAPMAN :

Q. They were given to the Montgomery and Eufala Railroad ?

A. I believe so.

By Mr. McKEON :

Q. Did you look, October 7, 1874, to see if they were quoted at all ?

A. I did not.

Q. You did not look at them ?

A. I have no distinct recollection the way I found out at that time.

Q. Did you look at them ; that is the point ?

A. I don't remember ; I relied more on the information I got from this broker than upon the quotations, because these quotations amount to nothing unless they are ready sales.

By Mr. CHAPMAN :

Q. They may be "washed" sales ?

A. They may be.

By Mr. McKEON :

Q. Do you know whether, from December, 1873, down to October 7, 1874, there had been any quotations at all of these Alabamas — of this kind of bonds ?

A. I don't know about these particular bonds.

Q. Did you go and tell this gentleman that they were Montgomery and Eufala bonds ?

A. I do not know as I did.

Q. You did not tell him any distinction between them ?

A. No.

Q. I will take the next bonds ; how did you get at the South Carolina bonds ?

A. By a general average.

Q. What price did you put upon them ?

A. \$17 for the South Carolinas.

Q. Do you know whether there are different classes of South Carolina bonds?

A. I believe there are.

Q. Is there such a class as are called non-fundable bonds?

A. Yes.

Q. Do not you know these bonds of the bank were non-fundable bonds?

A. I don't remember.

Q. Do you know that while one kind of bonds were selling at \$17, the non-fundable bonds were selling at 6 $\frac{3}{4}$  or 7?

A. Of course I knew that the non-fundables were very low.

Q. The highest price of the South Carolinas of any kind was \$17, and the lowest price was 6 $\frac{3}{4}$  and 7?

A. These bonds were presented to us by the officers of the bank as being regular bonds, *bona fide*, acknowledged by the State, and we considered them as good bonds.

Q. Did you inquire whether they were fundable or non-fundable?

A. I do not know whether I did.

Q. Do not you know, as a business man, that there were two classes of bonds?

A. Yes, sir.

Q. Did you not take the trouble to inform yourself whether they were fundable or not?

A. I don't know as I did.

Q. If they were non-fundable they should have been put at 6 and 7?

A. If I had known that I would have put them lower.

Q. Do not you think it was your duty to know they were?

A. Perhaps it was.

Q. You did not take the trouble to find out whether they were or not?

A. No, sir.

Senator ST. JOHN — How many were there?

Mr. BEST — \$141,000.

Q. And how many of the other bonds?

A. \$155,000 in all.

Q. The majority of these were non-fundable?

A. I don't know.

Q. Take the North Carolina bonds — are there different classes of them?

A. Yes; half a dozen different kinds.

Q. What kind did the bank have?

A. I don't recollect; they had all kinds; they had five or six different kinds.

Q. What kinds did they have, tell me?

A. I don't remember.

Q. At what rate did you put those North Carolina bonds?

A. At 30.

By Senator ST. JOHN :

Q. There were various kinds and you averaged them at 30?

A. Yes; the prices were just about the same as they had been at the former examination.

By Mr. McKEON :

Q. Do you know what was the highest price of these North Carolina bonds?

A. I think about 45; something like that.

Q. Where did you get that quotation — here is 42 — where did you get 45?

A. I said about 45; I don't know.

Q. Forty-two was the highest price here in October?

A. A year and a-half afterward when I analyzed this whole thing to make my regular report, then I was more particular about it.

Q. Do you know how many bonds the bank had of the first-class here?

A. I do not.

Q. Do you know whether it had more than one of those which were selling at 42?

A. I don't know.

Q. What was the next price ranging down from 42 or 45?

A. They ran down, I think, to ten, and I don't know exactly; some were very low.

Q. Were not some as low as six?

A. Special tax, North Carolinas, were very low I know.

By Mr. CHAPMAN :

Q. They did not have any of them?

A. I don't know what they had, I don't know how many of each kind they had — I have no recollection.

By Mr. McKEON.

Q. Do you know whether they had any of the funding act of 1866?

A. I think they had.

Q. What were those selling at?

A. I don't recollect.

Q. \$15 according to this paper?

A. I don't know.

Q. Another set of 1868 — do you know how many they had of them — those were selling at 14?

A. I do not recollect the different kinds.

By Senator ST. JOHN :

Q. What was the whole ?

A. \$114,600.

Q. Then the total amount of North Carolina bonds were valued at \$30,000 ?

A. \$34,380.

By Mr. McKEON :

Q. There were new bonds in the bank, were there not ?

A. I don't know.

Q. Do you know whether they were selling at 12½ ?

A. I don't recollect.

Q. Then another set August and October interest — those were selling at 10 — do you know how many of them they had ?

A. I don't recollect the different kinds.

Q. Will you tell me how you got your average at 30 — in what shape or form you put that average of the bonds ?

A. From information and from the valuations the officers put upon them, and the former examinations.

Q. Did you know, at that time, a particle of the character of the bonds then held in that bank — did you know any thing of them ?

A. Yes, sir.

Q. From your answers here, I judged not ; what did you know ?

A. I knew there were different kinds, but how many of each distinct kind —

Q. Did you see them ?

A. Yes, sir.

Q. Did you make a memorandum of them ?

A. No, sir.

Q. Why did you not look at the stock exchange reports of October 7, or any other date ?

A. I don't know.

Q. Will you tell me how you got 30 as the average, when they ranged from 6 and 10 up to 30, and one at 42 ?

A. I can't tell you how I did it.

Q. Can you explain it ?

A. That is the fact ; that is all.

Q. Can you tell me how you arrived at it ?

A. No, sir.

Q. Will you look at your report, on page 296, the report of 1875, and see what was the surplus reported by you on the 1st of April ?

A. \$82,331.18.

Q. What was the deficiency found by you on the 7th of October, 1874 ?

A. \$24,981.90; supposing that the accrued interest due depositors was credited.

Q. What is the difference between April and October in round numbers; is it not about \$107,000?

A. Yes, sir.

Q. In what securities did that change take place?

A. It was the Tennessee and Alabamas principally, and on account of the repudiation of interest.

Q. What surplus did you find on the 1st of January, 1875?

A. I had nothing to do with it; I made no examination in January; they made their own report.

Q. Do not you read these?

A. I read them, perhaps six months afterward, when the report is published; I have nothing to do with the work at Albany; I have nothing to do with the getting up of these reports.

Q. You say this difference, \$107,000, arose from the price of Alabamas and Tennessees?

A. I should think it was due to that largely.

Q. Do you know what they were selling for in April, 1874?

A. No.

Q. The Alabamas?

A. I don't know what they were selling at.

Q. What were they quoted at?

A. We quoted them here at 90, Alabamas, and Tennessees at 70; there were very few sales; they had just stopped their interest, and I put them in, I think, at what they stood at on their books.

Q. On April 1, 1874, did you look at the quotations of the stock exchange?

A. I don't know as I did, as they had just repudiated their interest; I think I put these in at about what they stood on their books.

Q. There is no report at all of these stocks held by the bank on the 1st of April, 1874?

A. There was no report do you say?

Q. There is no valuation put upon them there?

A. For this reason, that I put them in at about what they stood on their books.

Q. Then I understood you that you were not governed by the quotations at the stock exchange at all?

A. You don't understand me; I say that the stocks that are readily sold — have a quick sale at the stock exchange — I take the exact valuation, but where there are very few sales, then we exercise considerable discretion; in this case they had just repudiated their interest from January previous, and there was no way of fixing the value at



that time; there was every prospect that they would soon pay their interest in June or July; it was generally supposed that they would resume in June or July, and if they did not they were worth what we put them in at.

By Senator ST. JOHN :

Q. But they did not come to be ?

A. No, they did not.

By Mr. CHAPMAN :

Q. But that you could not see ?

A. No.

By Mr. McKEON .

Q. I will ask you whether any State that ever repudiated has paid up ?

A. Yes, sir.

Q. What ones ?

A. Georgia and Missouri.

Q. Has Georgia paid all her bonds ?

A. Not those that were repudiated; the Bullock bonds are not paid.

Q. Look on page 297 of the report of 1875, and you see there is a deficiency of income of \$14,000; how was that made up ?

A. I took the securities—that is all interest-paying securities—and estimated them at so much and their income, and then I ascertained the amounts of current expenses and what they would probably be for the coming year, and made estimate of them.

Q. Have you got the memoranda from which you made these estimates—the original papers ?

A. I have not; I very seldom keep memoranda of reports after they are printed.

Q. This was in 1874—I think probably 1874 ?

A. Yes, sir.

Q. The deficiency of income was \$14,000 and upward ?

A. Yes, sir.

Q. Did that ever improve ?

A. No; it got worse all the time; that is up to my next examination, two years.

Q. Was not that a suspicious circumstance ?

A. Yes; but I could not tell what it would be two years afterward.

Q. When was the next examination after 1874 ?

A. My next regular examination was two years from that time, in 1876, and the bank was closed on that report — on my next report in March, 1876.

Q. Did they ever get up their income to their expenditures?

A. Not after that; no, sir.

Q. You did not find that out until 1876; when you made your report that closed it up?

A. No, sir.

By Mr. McKEON:

Q. Do not you think you would have given a different judgment in relation to this bank, if you had looked at the reports of the Stock Exchange?

A. I don't know whether I would or not.

Q. Would you not have found out what kinds of securities were in the bank which might possibly be selling from 6 to 10?

A. I don't think I would if I had known it.

Q. Don't you think it was your duty, as an examiner?

A. I don't know; we consulted all of us together — Mr. Ellis, myself and the bank officers.

Q. You depended upon the bank officers, did you?

A. To a certain extent.

Q. Is it not an examiner's duty not to depend upon them?

A. The examiner has to depend upon them sometimes.

Q. Must he not take their statements with a great deal of allowance, as he is the supervisor over them?

A. We have to take their statement of the number of the depositors.

By Mr. CHAPMAN:

Q. Is there any way you can find out the number of depositors in a bank at all except from them?

A. No, except by calling in the bank books I don't know of any; in 1876 I called Mr. Best's attention to it.

By Mr. McKEON:

Q. Did you ever have a balance taken of the books?

A. I tried very hard to get one there.

Q. Did you have one taken?

A. No, I did not.

Q. Was there any one delivered to you?

A. In other banks?

Q. In this bank?

A. I don't think there was in this bank.

By Mr. CHAPMAN :

Q. It seems, from the report made by Mr. Gregory, one of the complainants in this proceeding, that you did not get very far from a correct valuation of the North Carolina and South Carolina bonds?

A. Yes, there was only \$720 difference.

Q. In a block of over \$60,000 ?

A. Yes.

Q. It seems, also, to be the fact that the \$1,200,000 of municipal bonds you undervalued rather than overvalued ?

A. Yes, the result proved it.

Q. The single case of the Alabama bonds is the only one in which you seemed to have overvalued ?

A. Yes, sir.

Q. If you did overvalue in that case ?

A. Yes, sir.

Q. In getting at that value, inasmuch as they were quoted at 30 bid and 70 asked, you made such inquiries as satisfied you — all of you gentlemen there — altogether as to what was the proper value to put down against those bonds ?

A. Yes.

Q. And that value was put down ?

A. Yes, sir.

Q. That is the way you ascertained in regard to them ?

A. Yes, sir.

By Mr. WELLMAN :

Q. Was it known to you, or was it known to any one else at that time — at the time of this examination in October, 1874 — that the State of Alabama had repudiated the Montgomery and Eufala bonds ?

A. No, sir.

By Mr. CHAPMAN :

Q. Since then they have repudiated the bonds themselves ?

A. Yes, sir.

Q. Previous to that they had only failed to pay the interest ?

A. Yes, sir.

Q. Since your examination, it was stated that the State designed to pay these bonds ?

A. Yes ; so I have understood.

Q. Do you recollect the fact that you, somewhere in your examination, obtained a report from the State of Alabama that her interest would be paid upon those bonds ?

A. Yes, that was the reason I put it in my report of March pre-

vious, because it was understood that they would commence paying in July.

Q. Is it true, in the case of some of these securities, where States have passed their interest, they have commenced paying again?

A. Yes, in Tennessee, they did it.

Q. I will ask you whether it is possible for you to make an examination of all the banks under your jurisdiction, and make the examination as extensive as that which you gave to this bank, and get around in two years, as required by law?

A. No, sir; I made 83 last year, and 106 the year before.

Q. Necessarily, you are compelled to pass over banks hastily?

A. Yes, sir.

Q. In order to get around within the two years which the law compels?

A. Yes, sir.

By Senator ST. JOHN :

Q. Could there not be two or three examiners to work at the same time?

A. At first I used to have two assistants, but under the new law I have done it all myself.

Q. There is nothing to prevent the superintendent having an examiner in one section and another examiner in another?

A. No, sir.

By Mr. CHAPMAN :

Q. Is it not a great deal better for one to make an examination, because he can keep a record of the whole, running along from year to year?

A. Yes; I know pretty much every bank in the State now; I have been through them all, I think, three times.

By Mr. McKEON :

Q. Do you know whether the Tennessees are all paying interest?

A. I do not think they do now; they paid and then stopped again.

By Mr. CHAPMAN :

Q. Do you know how much they have offered by way of compromise?

A. I do not.

Q. They offered only 50 cents on the dollar?

A. I don't know; I believe there are negotiations but I am not familiar with them.

Q. You made all the inquiries, you and Mr. Ellis, that you deemed necessary in order to ascertain the fair value of these securities?

A. Yes; we supposed that we had put every thing down at their fair value.

*Alfred T. Conklin*, a witness, being duly sworn, testifies:

By Mr. CHAPMAN :

Q. You were the president of the Mechanics and Traders' Savings Bank?

A. Yes, sir.

Q. For how many years?

A. Sixteen years, but at different periods, though.

Q. You know of these Tennessee bonds?

A. Yes, sir.

Q. After the time of the examination in October, 1874, did you have occasion to sell any of those bonds?

A. We sold some of them; I can't give you the dates.

Q. Was it after 1874 — after this examination?

A. Oh, yes; it was after the examination.

Q. What did you sell them for — how much?

A. I think it was 65, I will not be positive; I have not got the figures in my head, but you can tell from the books; they were sold in 1874 at 69, but we did not sell them.

Q. Do you recollect in November, 1874, of Mr. Gregory and you being appointed a committee to see what you could realize for North Carolina and South Carolina bonds?

A. Yes.

Q. Do you recollect Mr. Gregory's report to the board that you could realize \$60,000 in round numbers?

A. I think we made a report; yes.

Q. To that effect?

A. Yes, sir.

Q. Did you join with him in investigating as to the value of those bonds at that time?

A. I think he attended to it principally himself, he being down town all the time.

Q. Was he a stock broker?

A. No, sir; but he was there generally in the street.

Q. Wall street?

A. Yes; down there.

Q. After the examination had been made by Mr. Ellis, you received a letter from him, did you not, calling upon you to make up a deficiency?

A. Yes, sir.

Q. The one that has been produced in evidence here ?

A. Yes ; I think that is the letter.

Q. Were you taken sick along at that time ?

A. I was taken sick the last of October.

Q. Do you recollect of the matter having been brought up — the matter of this letter having been brought up, and the letter itself read and the contents of it discussed in the board ?

A. I will not be positive I was there myself or not ; I was sick from October until December — I got out in December.

Q. Do you recollect of your being appointed one of the committee with the vice-president, Mr. Ross, and, I think, another gentleman to consult with Mr. Ellis about the bank ?

A. There was a committee appointed ; I know that myself and Mr. Ross went there.

Q. Do you recollect what day it was you went to see him ?

A. I went up Christmas afternoon.

Q. December 25, 1874 ?

A. Yes, sir.

Q. Prior to that, do you recollect of having sold a block of 240,000 of Brooklyn park bonds ?

A. Yes, sir.

Q. I see Mr. Ellis, in his report, credits the bank with those at 103 $\frac{1}{4}$  October 7, 1874 ; what did you sell them for in December following ?

A. At 106 and interest.

Q. So that at the time you called to see Mr. Ellis in regard to the bank, you had actually reduced the constructive deficiency in this report some \$12,000 by cash in your bank ?

A. Yes, sir.

Q. Do you recollect of taking up to him the quotations of these or some of the stocks contained in this report ?

A. I took up quotations of Tennessees, and also Rochesters, Buffalos, and Oswegos ; they had all advanced ; Tennessees were going, I think, at 69 — at 68 or 69.

Q. These stocks which you held had advanced in that time, and made enough to wipe out the deficiency ?

A. Yes, sir.

Q. When you made the report in January 1, 1875, did you make inquiries as to the valuation of these stocks on that day ; when you made your report to the department ?

A. I got then the best market reports I could get ; we got the reports daily, and where they were not quoted, we went to individuals and asked them.

Q. And from these valuations, thus obtained, you had a surplus of sixty-seven thousand and odd dollars ?

A. Yes, I think it was; I am not positive.

Q. These two gentlemen who are complaining of Mr. Ellis — Mr. Floyd and Mr. Gregory — had caused the bank a good deal of trouble?

A. Yes, sir.

Q. Do you recollect of their having brought a suit against the bank in 1873, or the fore part of 1874?

A. I think it was 1873.

Q. In 1875 did they not bring another suit against the bank?

A. Yes, I think it was 1875.

Q. That was long prior to the time when the depositors commenced their withdrawal?

A. Yes; they commenced that in February.

Q. Not very much, as appears by the bank books; they did not commence withdrawing until October?

A. I believe that the suit was commenced.

Q. But it was not argued until August?

A. Yes; then the question was argued and they served an injunction on me.

Q. You succeeded?

A. Yes; he claimed he was elected president.

Q. And you not?

A. Yes, sir.

Q. Did you succeed in that suit?

A. Yes, sir.

Q. And from that time there commenced to be a withdrawal of deposits?

A. Yes, as soon as it got in the papers.

Q. Then it got in the papers?

A. Yes.

Q. And then the depositors commenced their withdrawal?

A. Yes, sir.

By Senator ST. JOHN:

Q. Were you aware that the bank was not earning sufficient to pay its expenses and a dividend in 1874 and 1875?

A. I was not aware of it until I was told.

Q. You were the president of the bank?

A. But I did not keep the books; these statements were made up every six months or every year.

Q. Was it not a fact that you showed a deficiency?

[Counsel for the superintendent suggests that the question is irrelevant, as the proceeding is not against any of the officers of the bank, but the question is whether the superintendent had been guilty of negligence.]

Q. Were you aware, as president of that bank and as the principal officer of that bank, and receiving a salary for your services, in attending to your duties, that the bank was not making money in 1874 and 1875 sufficient to pay its expense and pay a dividend?

A. I did not know it.

Q. You have made here, in 1875, a dividend under the law, and have voted by ayes and noes, and have recorded yourself in favor of making a dividend?

A. Yes.

Q. Would you permit a dividend to be made when it was not earned?

A. I did not know whether it was earned or not; I don't know but the selling of stocks made it.

Q. The selling of stocks?

A. Sometimes; for instance, on the sale of stocks in December, 1874, there was a profit.

Q. That is all right, but here, on the other hand, you have still these Alabama stocks, which have depreciated and have no value in them?

A. They have depreciated enough, but not at that time.

Q. How do you ascertain that?

A. From the best information we could get.

Q. You have never been able to sell them or get an offer for them; you say you don't know whether you were earning expenses or not?

A. I did not go through the books myself; I did not keep them.

Q. Does not the secretary or treasurer present you with weekly or monthly reports, so that when you come to make a dividend you know whether you have made any thing or not?

A. These reports were made every six months; every six months we had a balance sheet made, and made our report to the department.

Q. Do not you predicate your dividend upon this statement?

A. Yes, on the statement.

By Mr. CHAPMAN:

Q. On that statement you had a right to make it under the law?

A. Yes, sir.

By Mr. MCKEON:

Q. You found yourself in October, 1874, behindhand?

A. I did not.

Q. Did you not hear from the superintendent that there was a deficiency?

A. Yes, sir.

Q. Did he not tell you it was \$24,000?

A. Yes, sir.



Q. Did he not say you had better assume it to be \$50,000 ?

A. Who ?

Q. The superintendent ?

A. I think there was something of that kind.

Q. Did he not suggest that you give bonds or make up the deficiency ?

A. Not at that time ; he wrote a letter to us.

Q. That was in October ?

A. Yes, sir.

Q. Did he not suggest that you make up the deficiency by giving bonds ?

[Objected to on the ground that the letter is the best evidence of its contents.]

Q. Did you give any bonds ?

A. No, sir.

Q. Did you make up the deficiency ?

A. No, sir.

Q. Did you as president require of them to give bonds ?

A. It was read to the board, and there the matter ended.

Q. Did you ever make up the deficiency in any shape or form ?

A. No, only by the increase in value of the stocks, and the sale of the Brooklyn parks.

Q. You thought the bank was all safe ?

A. Yes, sir.

Q. It did not become safe that way ?

A. We suppose it did.

Q. When you say that by the sale of these stocks you could have made up the deficiency — the apparent deficiency of \$24,000 or \$25,000, you assume in your calculation that the values of the South Carolinas and North Carolinas were about the same ?

A. Just the same.

Q. That they stood still ?

A. Yes, sir.

Q. Had you any right to think that they would stand still, and that they would not go down every day until there would be no sale for them at all ?

A. I had no right to assume any thing of that kind.

Q. As a business man ?

Q. No ; because the State of Alabama, for instance, had given out that they were going to pay interest, and everybody supposed they would pay their interest in July.

Q. Had North Carolina and South Carolina given that out ?

A. North Carolina did not give it out.

By Senator ST. JOHN :

Q. Have you ever seen this report which shows a deficiency of income of \$14,000 ?

A. Yes, I have seen that.

Q. What did you think of the report ?

A. I inquired of the secretary if he agreed with it, and he said he thought it was about right.

By Mr. McKEON :

Q. Did you ever buy on your own account these southern bonds ?

A. Yes ; but not for my own individual purpose.

Q. Did you know there was a distinction between fundable and non-fundable bonds of South Carolina ?

A. Not until after the State had made the distinction.

Q. When was that ?

A. I can't tell exactly, when it was.

Q. Do you know what portion of each class of these bonds the bank held ?

A. They were all of one kind ; as I understand it now, in regard to the State of South Carolina, the non-fundable and fundable bonds were the same bonds as issued, but only different numbers — the same issues, only with different numbers ; a part of the same bonds having a different number were fundable.

By Mr. CHAPMAN :

Q. And they were made non-fundable by an act of the legislature ?

A. Yes.

By Senator ST. JOHN :

Q. How many of those were non-fundable ?

A. I don't know now.

By Mr. McKEON :

Q. Do not you know that they were known on the market as early as July, 1874, as fundable or non-fundable ?

A. July, 1874 ?

Q. Yes ?

A. I don't know it ; no, sir.

Q. Did you know any thing about these bonds at all ?

A. The South Carolina bonds ?

Q. Yes, sir ?

A. I knew them, I know at a particular time we bought them.

Q. Were they purchased under your administration ?

A. Yes, sir.

Q. From whom were they purchased ?

A. They were purchased from Robinson & Cox.

By Mr. CHAPMAN :

Q. Did Gregory purchase them ?

A. Yes ; I was out of town at the time.

By Mr. McKEON :

Q. What were the bonds purchased from Joslyn & Co. ?

A. They were North Carolinas and Tennessees ; the Alabamas were purchased of Opdyke & Co.

Q. Are you aware that non-fundable bonds, as far back as July 2, 1874, were quoted at 6 ?

A. Was I aware of it ?

Q. Yes, sir ?

A. I may have been.

Q. Did you know any thing about it ?

A. I did not know that we had any non-fundable bonds.

Q. Did you ever read the bonds ?

A. Yes ; but it don't say on the bonds that they are non-fundable.

A. Did you make any inquiries about them ?

A. I will tell you why I did not, because these bonds were taken down to the State and there registered.

By Mr. CHAPMAN :

Q. By the State authorities ?

A. By the State ; and every one of these bonds was registered, and every coupon was registered by the State agent on each bond.

Q. They read all alike, do you say ?

A. Yes.

Q. No distinction at all ?

A. No distinction at all ; if the bonds were produced here, you could see yourself ; each one of these bonds was registered by the State.

By Mr. McKEON :

Q. Were you there when the bank building was put up — were you connected with the bank ?

A. Yes.

Q. What did it cost ?

A. I can't say now what it cost.

Q. What did the lot cost ?

A. \$11,000.

Q. What did the building cost to put up ?

A. I really can't state what the cost of the building was, for it was built at separate times; in the first place it was put up one story — a very high story, with a pitched roof above it ; afterward they thought they did not have room enough, and they put another story on it.

Q. Did the whole cost more than \$33,000 or \$34,000 ?

A. I can't tell.

Q. Did it cost over that ?

A. The whole thing ?

Q. The whole building — the building and lot — the lot cost \$11,600 and the building about \$34,000 ?

A. Oh, yes ; it cost a great deal more than that.

Q. Do you recollect whether the trustees were paid for supervising it ?

A. I think they were.

Q. What years were they ?

A. I think it was 1860, 1861 or 1862.

Q. Was it not in 1868 ?

A. Eighteen hundred and sixty-eight — no ; that was the time the addition was put on.

Q. Do you know if they added to the expenses of the bank to cover loss on their transactions ?

A. What ?

Q. Do you know that the bank was charged with loss on their transactions ?

A. Yes, sir.

Q. How much and what ?

A. That bankruptcy claim.

Q. Of whom ?

A. Of the Joslyns.

Q. How much of that was put on ?

A. How much was put on ?

Q. On the bank building ?

A. I cannot tell ; I was not there because I was sick at the time ; Mr. Gregory arranged that.

Q. Do you know how much was paid the trustees — was it not about \$5,000 ?

[Objected to as too remote. Objection sustained.]

Q. What business were you in before you went into that bank ?

A. I was in the provision business.

Q. Were you carrying on business while connected with the bank ?

A. A part of the time, yes.

Q. The last six or seven years ?

A. No.

Q. Doing nothing but attending to the bank ?

A. No.

By Mr. CHAPMAN :

Q. Was there any reason why, if times had changed from January 1, 1875, this bank should not have succeeded and gone on ?

A. No ; that was our view of the matter ; if the fall in these securities had not taken place there would have been no trouble.

Q. Now at the time of the examination, or prior to that, had you received information from the State authorities of Alabama that the interest was to be paid upon these bonds which had been passed in January and July ?

A. Yes, sir.

Q. From the treasurer of the State of Alabama ?

A. From the treasurer of the State.

Q. You wrote the State yourself ?

A. Yes, sir.

Q. And you got this information ?

A. Yes, sir.

Q. That it was to be done ?

A. Yes, sir.

By Senator WELLMAN :

Q. What date is that ?

A. I can't tell, the letter was left in the bank.

Q. Was Mr. Ellis' attention called to it ?

A. Yes.

By Mr. McKEON :

Q. Did you say there are letters in the bank from the treasurer of Alabama ?

A. Yes.

By Mr. CHAPMAN :

Q. Left there by you ?

A. Left there amongst the papers ; I did not take them away.

By Mr. McKEON :

Q. Did you show it to Mr. Ellis ?

A. Yes ; I saw it on Saturday in one of the price lists that they would resume in July, or supposed they would resume in July.

By Senator ST. JOHN :

Q. The Alabamas ?

A. Oh, yes ; but these were regular State bonds.

Q. They were issued for some railroad ?

A. But they were regular State bonds issued in favor of a railroad, the same as Oswego issued their bonds for the Midland.

By Mr. CHAPMAN :

Q. Do you know whether Mr. Fisher, the secretary, invested \$20,000, his own money, in those bonds ?

A. Yes, we got information from the Dry Dock Savings Bank and the Citizens' when we went to inquire about these bonds, and they considered them first-rate ; I considered them as first-rate — the Alabamas — and we received dividends on them of eight per cent.

Q. You did receive dividends on them ?

A. Yes, sir.

By Senator ST. JOHN :

Q. How many did you receive on the North Carolinas and South Carolinas ?

A. We did not receive any.

Q. They did not pay you any dividends since you bought them ?

A. They professed that they were going to pay and they had paid ; we came in just after they had paid.

By Mr. CHAPMAN :

Q. As it was, you could sell these in November, 1874, at 60 ?

A. We sold a few of these North Carolinas at 60½ or 62½.

By Mr. McKEON :

Q. How many did you sell at 60 or 62 ?

A. The North Carolinas ?

Q. Yes.

A. Four or six, I think.

Q. Out of how many ?

A. One hundred and fourteen, altogether.

Q. Is this a letter you received from Alabama [producing a letter to the witness] ?

A. We got two letters on the subject from Alabama, and I think this is one of them.

Q. Is this the other one [producing a paper to the witness] ?

A. Yes, sir ; this is Mr. Fisher's ; I was sick at the time.

Q. You got two letters ?

A. Yes, sir ; the date of that was June 14, I see.

The first letter referred to is offered in evidence in the words following:

STATE OF ALABAMA,  
TREASURY DEPARTMENT,  
MONTGOMERY, 30th Jan., 1874. }

*A. T. Conklin, Esq.*, 46 Broadway, N. Y.

DEAR SIR — Yours 26 to hand ; just at this time the State is not paying her interest, but I think will resume payment of interest soon. The recent panic has retarded payment of revenues to the department until a very recent date. The present rapid collection of such revenues will soon enable the State to pay her direct interest. Until further directions, applications for payment of coupons will be made to this department.

Most respectfully,

ARTHUR BINGHAM,

*State Treasurer.*

Q. Have you got a copy of the letter you sent — or what did you inquire ?

A. I inquired when they were going to pay interest.

Q. Did you tell what kind of bonds you had ?

A. I think so — I do not know ; I am not positive about it ; they had paid the interest on the bonds up to the repudiation.

Q. You did not tell what kind of bonds you had ?

A. No, sir ; I said State bonds ; I did not think it was necessary to specify.

By Mr. CHAPMAN :

Q. That letter was shown at the time of the examination ?

A. Yes, sir ; I come to recollect, now, that that letter was written after the committee was appointed — after the State appointed commissioners ; I asked Mr. Fisher to write down to them.

The letter is read in evidence, in the words following :

STATE OF ALABAMA,  
OFFICE OF COMMISSIONER,  
MONTGOMERY, January 14, 1875. }

*H. C. Fisher, Esq. :*

DEAR SIR — Your favor of the 18th inst., addressed to the governor of this State, is now before us.

We appreciate your anxiety to obtain early information in regard to the resumption of the payment of interest on the indebtedness of Alabama, and it would afford us pleasure to be able to announce that

the State possessed the means of early resumption upon valid claims. But, unfortunately, we are not in that condition, nor can we now indicate when we will be ready to meet the creditors for adjustment and settlement of the liabilities of the State.

The extent of the indebtedness of the State is unknown to us. The records are confused and imperfect, and do not, as they ought, disclose all the information which is essential to a full comprehension of the financial condition of the State. *Obligations so called are reported to exist which are believed to be illegal; others have been incurred without a compliance with law:* and thus environed, there will be unavoidable delay in consummating a final adjustment. We are now engaged in examining the records of the State, but *full information can only be obtained by calling on the creditors for specific statement of the character and amount of their claims*, which will be done by publication in one or more of your city papers in a few days.

In the meantime the commissioners assure the creditors of the State that they will be met in a spirit of frankness, and that the right of both debtor and creditor will be duly regarded; the inability of the State to meet *just and legal obligations*, although *to some extent* injudiciously incurred, will not prevent the tender of an equitable adjustment.

Very respectfully,  
GEO. S. HOUSTON,  
LEVI W. LAWLER,  
W. B. BETHREN,  
*Commissioners.*

Q. This letter was in your possession at the time of the last examination?

A. It did not come until along in January, 1875; it is dated January 14, 1875; I do not know what time he received it.

By Mr. McKEON:

Q. After you got it what did you put the Alabamas at?

A. In January, 1876?"

Q. In July, 1875?

A. We did not make a report in 1875.

Q. Did you make a dividend?

A. Yes, sir.

Q. What did you put these things at?

A. The law did not require us to put them in.

Q. You made no examination into the value of those assets?

A. There was no reason of making an examination of the value of the assets until we made our report to the banking department.



Q. Then on the 1st of January, 1875, you did make a report?

A. Yes, sir.

Q. What did you put the Alabamas in then at?

A. I cannot tell you from memory — the papers will show.

Q. What means did you make use of in regard to the States of South Carolina, North Carolina and Tennessee, to know their condition in the fall of 1874?

A. I did, in regard to the State of Tennessee.

Q. Did you get a letter?

A. It was somewhere in the bank.

Q. Then the States of North Carolina and South Carolina?

A. I was down to the State of South Carolina to have the bonds registered.

Q. The registration took place some time before?

A. Yes, sir; I think in 1874.

Q. What time in 1874?

A. It is in the fall of 1874 — no, it must be 1873.

Q. What did you do in 1874 to find out the standing of North Carolina and South Carolina?

A. What did I do? We took what we could find in Wall street, amongst those we supposed would know.

Q. Did you look at the stock exchange list in 1874?

A. I looked at it pretty much every day, at the prices; sometimes there were sales, and sometimes there were not.

*J. S. Carman*, being duly sworn, testifies:

By Mr. CHAPMAN:

Q. Where do you reside?

A. In Orange, New Jersey, at present.

Q. Did you at any time within the last few years reside in Brooklyn?

A. I always resided in Brooklyn till the last eighteen months.

Q. What has been your occupation?

A. During the last nine or ten years real estate brokerage.

Q. Have you an office in Brooklyn?

A. Yes, sir.

Q. Are you acquainted with the values of real estate in Brooklyn?

A. Yes, sir; I think so.

Q. Were you acquainted with the property at the corner of President and Van Brunt streets, Brooklyn, consisting of a building erected for a bank, and the building with a brown stone front adjoining, and the stable behind it, with the land upon which it stands?

A. Yes, sir.

Q. What, in your opinion, was the value of that property in bulk in October and September, 1874?

A. You mean the corner house and the house, and the house adjoining.

Q. The corner house and the stable back of it, and the building built as a bank adjoining it?

A. \$32,500.

By Mr. McKEON:

Q. How could you get at that time 10 per cent from it; would it yield a rent of 10 per cent; would it give an interest of 10 per cent on \$32,000?

A. They would not in the condition the corner building was in at that time.

Q. Would they at any time?

A. By spending a very little money they would.

Q. Would they do it as it was in 1874?

A. That would depend upon what business they were going into.

Q. Give us the way you get at your \$32,000?

A. The building could be altered and utilized for living purposes; I think it would have paid in that way 10 per cent on the cost at that time.

Q. What kind of a neighborhood is that; it was tenement property at that time?

A. The neighborhood originally was built of very good houses.

Q. What was it in the fall of 1874?

A. It consisted of tenement houses.

Q. How are you going to change that so as to yield 10 per cent on \$32,000?

A. The corner building, if it was fitted up properly, would be very fair paying property; with one bath-room and one water-closet, the way tenements are fitted up now, that building on the corner could have been utilized and paid very well.

Q. At what expense?

A. At an expense of \$1,500 or \$2,000.

Q. With that expense added to it, how could you make \$32,000 out of it?

A. You could not buy the lots in 1874 and put the buildings there for that money, and you could not buy the lots and put the buildings there to-day for less than \$45,000.

Q. What do you claim for it now; what is it worth now?

A. I would like to get hold of the two pieces for from \$15,000 to \$18,000.

Q. Do you know of any sale in 1874, near there?

A. Yes, sir.

Q. Where ?

A. In President street.

Q. Whereabouts ?

A. Near Hicks street.

Q. How far was that from this building ?

A. Just above it.

Q. How many feet from it ?

A. 600 or 700 feet from it, I suppose.

Q. What kind of a neighborhood was there there ?

A. About a similar neighborhood to this, only this was corner property.

Q. What kind of property was it ?

A. Very cheap tenement-house property ; the cheapest kind.

Q. What did they sell for ?

A. About \$16,000 apiece.

Q. \$16,000 for tenement-house property there ?

A. Yes, sir ; of the cheapest kind.

Q. When did the break-down in the market of real estate come ?

A. In the spring of 1875.

Q. Didn't it take place in 1873 ?

A. No ; I didn't see it.

Q. Do you mean to tell me that Brooklyn property has ever been favorite property with New Yorkers ?

A. Yes, sir ; I will discuss that with you if you like.

Q. Do you mean to say that there has not been a deficiency on every sale for the last year on mortgage ?

A. Yes, sir ; I know to the contrary.

Q. What cases do you know ?

A. I know several cases.

Q. Tell me one case within a year past ?

A. Where the property has not brought the amount on mortgage ?

Q. Yes ; how many such cases do you know — not one — but how many of them ?

A. Well, I think I can run over a dozen.

Q. Name two or three of them ; give the property, the amount of the mortgage, and the amount it brought ?

A. There was property on Fifth and Sixth streets mortgaged for \$6,500 ; some of it brought up to \$7,500.

Q. How does that location, on Fifth street, compare with this ?

A. It was an entirely different neighborhood.

Q. Go back to 1874 ; you know of one block that sold for \$16,000, can you name another one ?

A. Well, I won't say definitely, but there was some property sold on

Hamilton avenue, near this, and I wont say the figures for I might be wrong.

Q. Have you an office on this side of the river ?

A. Yes, sir.

Q. Where ?

A. It is at 8 Pine street now, it will be at the corner of Broadway and Courtlandt, to-morrow, the 1st of May.

Q. Did you attend the sale of this property ?

A. No, sir.

Q. You didn't go over to Brooklyn to attend it ?

A. No, sir ; I didn't go to the sale.

Q. Did you know of the sale ?

A. No, sir.

Q. Well, there is a vast difference between \$5,000 and \$30,000, is there not ?

A. Yes, sir.

By Mr. CHAPMAN :

Q. Had your attention been called to this property of Goulard, prior to 1874 ?

A. Yes, sir.

Q. What valuation was there upon it ?

A. Mr. Goulard wanted \$50,000 for the property ; he wanted to make a disposition of it at that time.

Q. What was the amount of the bank's mortgages ?

A. My impression was that it was in the neighborhood of \$15,000, on the two mortgages, and Mr. Smith had second mortgages beyond that, and Mr. Lowery, Mr. Goulard's attorney, thought it better to hold the property than to sell it.

Q. This man Smith is one of the largest real estate holders in Brooklyn ?

A. Yes, sir.

*J. N. Wyckoff*, being duly sworn, testifies :

By Mr. CHAPMAN :

Q. Are you a member of the firm of Wyckoff & Shepherd ?

A. Yes, sir.

Q. Real estate brokers and auctioneers on Broadway, New York ?

A. Yes, sir.

Q. How long have you been a real estate broker ?

A. About 17 years.

Q. Are you acquainted with the values of real estate in Brooklyn ?

A. Yes, sir.

Q. Mr. James, the gentleman who was here the other day, called by the prosecution, was a former clerk of yours in this business ?

A. He was formerly a partner.

Q. Do you know the property at the corner of President and Van Brunt streets, Brooklyn ?

A. Yes, sir.

Q. Are you acquainted with the value of property in that locality in September, 1874 ?

A. Yes, sir.

Q. What, in your opinion, was the value at that time of the property at the corner of President and Van Brunt streets, consisting of a building erected for a bank, and a brown stone house and a stable behind it, with the real estate upon which they stand ?

A. I should judge about \$30,000.

By Mr. McKEON :

Q. When was your attention first called to this building ?

A. I have known it for a good many years ; probably six or seven years.

Q. Were you living over in Brooklyn when it was being built ?

A. Yes, sir.

Q. Passing it every day ?

A. Yes, sir.

Q. Do you know of any sales in that neighborhood in 1874 ?

A. I don't know that I do sir ; I don't remember of any.

Q. What do you make your basis of calculation on for 1874 ?

A. On general knowledge of the lots and value of buildings.

Q. How could you get ten per cent out of that property ?

A. You couldn't get ten per cent out of it now.

Q. How could you then ?

A. Well, if the projector had carried out his idea and made a bank there, it probably could have been utilized at ten per cent ; it might have been rented then at the rate of ten per cent.

Q. Well, if there was not a bank there at what rate would it come ?

A. Well, it is rather difficult to answer that.

Q. Isn't it tenement property all around there ?

A. Well, generally, sir.

Q. Has it ever been rented, to your knowledge ?

A. Not to my knowledge.

Q. Have you inquired whether it has ever been rented ?

A. No, sir.

Q. Do you know the rents of houses in that neighborhood ?

A. Only so far as tenements go.

By Mr. CHAPMAN :

Q. Isn't it true that property has a value, even though you may not be able to rent it ?

A. Yes, sir.

Q. Isn't it true of almost all vacant lots in the cities of New York and Brooklyn that they have a value, although you may not be able to get 10 per cent out of them ?

A. Yes, sir.

Q. The mere fact that you may be able to get a certain per cent in rents is no criterion of the value of the property ?

A. No, sir.

By Mr. McKEON :

Q. Isn't it the general rule by which dealers in property go ?

A. Well, it has been for the last four or five years.

Adjourned to Tuesday, May 1st, at 10 o'clock.

NEW YORK, May 1, 1877.

The committee met pursuant to adjournment.

Present — Senators COLEMAN (chairman), ST. JOHN and WELLMAN.

*De Witt C. Ellis*, called as a witness, being duly sworn, testifies :

By Mr. CHAPMAN :

Q. Are you superintendent of the banking department of New York ?

A. Yes, sir.

Q. When were you appointed ?

A. The 19th of February, 1873, I think.

Q. What position had you been occupying prior to that ?

A. I was deputy State treasurer at the time the appointment was made.

Q. How long had you been acting as such at that time ?

A. I think I went into the treasurer's office January 1, 1872.

Q. And remained as such down to the time you were appointed bank superintendent ?

A. I did.

Q. And have remained bank superintendent since ?

A. I have.

Q. Who was your predecessor as superintendent in the department ?

A. D. C. Howell, of Bath.

Q. You have read the charges presented by the governor to the senate ?

A. I have.

Q. Also the letter of Mr. Best to Governor Tilden ?

A. I have.

Q. Also the schedules accompanying the governor's message and Mr. Best's letter ?

A. I have.

Q. And the affidavits of Mr. Floyd, Mr. Gregory and Mr. Bellamy ?

A. All of them.

Q. And you have heard these gentlemen testify here in this investigation ?

A. I did.

Q. I would call your attention to the charges which the governor presented to the senate, taking them up one by one; the first charge which the governor makes, or the first proof which the governor presents, in support of the charges which he makes, is as follows: "A balance sheet, schedule A, made out by George N. Pratt, who was the general book-keeper of the bank, as verified by his oath, showing a deficiency in July, 1874, of two hundred and one odd thousand dollars:" did you hear Mr. Best testify in regard to that paper, which the governor characterizes as "a balance sheet, made out by Mr. Pratt," yesterday ?

A. I did.

Q. Did you hear him testify that he himself put on the figures to that paper, which the governor characterizes as "a balance sheet" ?

A. I did.

Q. With those figures off, could there be any balance sheet of it ?

A. There could not.

Q. Did Mr. Pratt then make that balance sheet ?

A. He did not, if Mr. Best swore to the truth.

Q. And Mr. Best is the man who presented these charges to the governor ?

A. He made the figures himself, he said ; that makes the balance.

Q. [Handing book to witness.] Will you look at that certificate of Mr. Pratt, and see what he certifies to ?

A. He certifies he was book-keeper of the bank in 1874, and that he has examined the schedule hereto annexed, marked A, and that it includes all the assets of the said institution at the time named.

Q. Will you read all there is in there, which he has certified to ; read the words simply which he has certified to on that paper ?

A. "Bonds and mortgages, stocks and bonds, cash in the safe and in banks, interest due but not collected, banking-house, cost,

"No. 30 President street, Brooklyn,

“No. 32 President street, Brooklyn,

“E. Goulard judgment,

“Suspense account, nominal value, \$41,000.”

Q. Did he certify to the figures?

A. “Subsequently realized, office furniture, safe,” etc.

Q. Is there any thing in that certificate to the assets, showing any balance sheet made out by Mr. Pratt?

A. There is not.

Q. Has there ever been any question, so far as you know, but that the bank had the assets mentioned and certified to by Mr. Pratt?

A. I never heard it disputed or questioned.

Q. Any claim so far as you know?

A. Never any.

Q. Will you tell the committee then, if you can, what significance there was in obtaining Mr. Pratt's signature, or certificate, to the fact that this bank had these assets; was there any?

A. I cannot see that there was any, except to furnish evidence on the part of the receiver that he received such assets, that they were there at the time.

Q. That never has been questioned anywhere?

A. Not that I know of.

Q. The values were not carried out?

A. It seems not, by Mr. Best's statement.

Q. Or certified to by Mr. Pratt?

A. It seems not.

Q. So that if Mr. Best's testimony was correct there was no balance sheet made out by Mr. Pratt?

A. No, that must be so.

Q. It is very evident the governor must have been misled?

A. I should have been misled by such a misstatement, and I have no doubt he was.

Q. The second item of proof which the governor submitted to the senate reads as follows: “Second. The testimony of William Floyd and Ira W. Gregory, two of the trustees of the bank, contained in their depositions that they, as a special committee appointed in July, 1874, to examine its condition, reported a deficiency of assets, as compared with liabilities, of \$181,505.71, and a deficiency in annual income, if the usual dividend of interest to the depositors were declared, of \$15,041.70. Schedules B and C, showing this condition of things, were appended to the charges, and form a part of their report. Mr. Floyd deposes further, that the trustees having, notwithstanding their report, declared the usual dividend, he through F. P. Bellamy, his attorney, in 1874, made copies of the report of himself and Mr. Gregory, and, accompanied by the schedules above mentioned, appeared



before Mr. Ellis and requested of him to institute proceedings to protect the creditors ; that thereupon Mr. Ellis went to New York, and in person examined the condition of the bank ; that after such examination Mr. Ellis admitted to Mr. Floyd that the report of himself and Mr. Gregory was substantially correct, the bank was insolvent, and promised to take immediate measures to protect the depositors ; that he, Mr. Floyd, frequently, between that time and June, 1876, urged Mr. Ellis to take some action in the matter, but that until the last-named date he neglected so to do." Now, I would call your attention to the items of proof in regard to that ; as to this \$181,000 deficiency purporting to be shown by these statements which the governor sent to the senate, these schedules affixed to Mr. Floyd's and Mr. Gregory's affidavits, did you not find, when you came to investigate, that they had left out all the cash of the bank ?

A. I did.

Q. Amounting to how much ?

A. \$102,000, in round numbers.

Q. And had left out the Goulard judgment ?

A. They had.

Q. \$5,000 ?

A. \$5,000, estimated, I think.

Q. And they left out the furniture ?

A. Furniture and fixtures and suspense account.

Q. Now, you say you have read these affidavits of Messrs. Floyd and Gregory ; do you recollect that they swore that you had admitted to Mr. Floyd and Mr. Gregory that this report was substantially correct ?

A. I remember they swore so in their affidavits.

Q. Did you hear Mr. Floyd and Mr. Gregory swear here the other day ?

A. I did.

Q. Did you hear Mr. Gregory swear the other day that you admitted that to him, before you made the examination ?

A. I did.

Q. How could you admit that his report was substantially correct before you made the examination ?

A. I didn't admit it.

Q. Did you admit it ?

A. I could not admit it, for I had no means of knowing, except their own statement.

Q. And you recollect one of the committee calling Mr. Gregory's attention to that, and asking him how it could be ?

A. Yes, sir.

Q. After you had made the examination, do you recollect of your finding but a deficiency of some \$24,000 ?

A. I do.

Q. And do you recollect of Mr. Floyd swearing that you claimed to him that you found a deficiency of \$24,000?

A. I do, very distinctly.

Q. How, then, he reporting a deficiency of \$181,000, and you reporting a deficiency of only \$24,000, could you have admitted to him that his report was substantially correct?

A. I could not, unless I guessed at it; in fact, I never admitted it I never had such an idea in my mind.

Q. The two are not substantially correct, and you told him it was only \$24,000?

A. Entirely different.

Q. And he swore to it the other day?

A. Yes, sir; and he swore I admitted a deficiency of about one per cent; that it would amount to about \$24,000.

Q. Now, in the affidavits to the governor you recollect that Mr. Floyd and Mr. Gregory swear that they frequently, between October, 1874, and June, 1876, urged upon you to take some action in the matter, but that until the last named date you neglected to do so?

A. I remember it, and read it.

Q. From the time you were here in October, 1874, and saw Mr. Floyd and Mr. Gregory at the Metropolitan hotel, did you see either Mr. Floyd or Mr. Gregory at any time until after you had handed over the bank to the attorney-general in 1876?

A. I never had seen them prior to that time, and never have seen them since that time, and never have had any communication, directly or indirectly, with either of them.

Q. Then those affidavits which they presented to the governor, stating that they had frequently urged upon you to take this action, were fraudulent, were they not?

A. Absolutely.

Q. Did you hear Mr. Floyd and Mr. Gregory themselves swear on the stand, in this investigation, that they had not seen you from the time they met you at the Metropolitan hotel until they came here?

A. They both swore to that, and swore to the truth when they swore to that.

Q. That is different from their affidavits?

A. Yes, sir; a flat contradiction.

Q. A flat contradiction of their affidavits to the governor?

A. Yes, sir.

Q. Now, I will ask you whether from the time you were here in October, 1874, down to the time you handed the bank over to the attorney-general to be closed, you ever saw Mr. Bellamy?

A. I never did.

Q. Now, I will ask you whether you received any communication during that time from Mr. Bellamy, either directly or indirectly, by letter or otherwise ?

A. I received one short letter, to which I replied, and the reply is here in the case.

Q. It has been introduced in evidence ?

A. Yes, sir ; it was a letter asking what had been done ; what was the result of the examination, to which I replied, referring him to the requisition and letter which I had sent to the bank.

Q. That was after you were here and made an examination ?

A. That was after the examination was concluded.

Q. With that exception, did you receive any letter or communication, either directly or indirectly, from Mr. Bellamy from the time you made the examination until you handed the bank over to the attorney-general ?

A. Never ; not a syllable ; I never saw him, or heard from him.

Q. After you had handed it over to the attorney-general, did you then receive a letter from him ?

A. I did ; from Mr. Bellamy.

Q. How many letters in all did you receive from Mr. Bellamy ?

A. Two ; one prior to the closing of the bank, and one after.

Q. You heard Mr. Bellamy swear that he never had seen you from the time of the examination until you came here ?

A. He swore that he never saw me from the time we parted here, or at Albany, until he met me here in this investigation, which was true, too ; at least, I never saw him.

Q. He speaks of having sent you two or three letters ; he thinks more than two ; if he sent more than two, did you ever receive them ?

A. I did not.

Q. Now, I will ask you generally, whether you received any complaint, or intimation, or request from Mr. Floyd, or Mr. Gregory, or Mr. Bellamy, or anyone connected with this bank, to do any thing after the time of his letter in October, 1874 ?

A. I never did ; never a word of complaint from any source whatever.

Q. So that these statements, in these affidavits handed to the governor, on which the governor based those second charges, were incorrect ?

A. They were, utterly.

Q. That is indicated not only by your own testimony, but by the testimony of Mr. Floyd, Mr. Gregory and Mr. Bellamy before this committee ?

A. There don't seem to be any difference of opinion between us in that regard, so far as their testimony here is concerned.

Q. Now, we will come to the third charge; the third item of proof, which the governor presents to the senate, reads as follows: "The testimony of F. P. Bellamy, attorney at law, of Brooklyn, contained in his deposition to the same facts and to the same admissions to him by Mr. Ellis, after his personal examination of the condition of the bank that it was insolvent, and that he (Bellamy) had on behalf of the two trustees above named frequently urged Mr. Ellis thereafter to take action to protect the creditors, and had mailed several letters to Mr. Ellis to that effect, between the time of the examination aforesaid, and June, 1876, but that Mr. Ellis neglected to take any proceeding, until the last-named date." I will ask you whether you made the admissions which are charged in here to Mr. Bellamy, after your examination of the bank?

A. I never made any admission to him; I never saw him.

Q. You didn't see him after you had made an examination of the bank?

A. No, sir; after he came to New York.

Q. Did you hear him swear the other day that he had not seen you from that time?

A. I did.

Q. So that that statement is not true by your testimony, and by Mr. Bellamy's himself?

A. That statement is not true.

Q. Is it true, as contained in this charge, that Mr. Bellamy had frequently urged you to take action to protect the creditors, from the time you were here down to the time you passed the matter over to the attorney-general; is that true?

A. It is not.

Q. That is based on your own knowledge, and also on what he has sworn to here?

A. Certainly.

Q. So that the governor must have been misled by those statements in those affidavits in that charge?

A. That would be the very natural inference.

Q. The fourth charge is, that the deposition of Mr. Gregory to the effect that he confirmed all that Mr. Floyd stated, concerning the acts and doings of Mr. Floyd and himself to Mr. Ellis—it may be necessary to go back to see what Mr. Floyd and Mr. Gregory have said; that is given as additional proof to the second item of proof which the governor sends to the senate in regard to Mr. Floyd, so that your answer in regard to Mr. Gregory would be the same as to what Mr. Floyd stated?

A. Yes, sir.

Q. And did Mr. Gregory here on the stand swear to the same thing that you claim now in regard to the frequent urging you to take action after the time of examination?

A. He testified that he had never seen me from that day to this, or communicated with me.

Q. And that was true?

A. That was true.

Q. Never received any communication from Mr. Gregory, either directly or indirectly?

A. Never.

Q. Never saw him from that time?

A. Never.

Q. And he admitted that here?

A. Yes, sir.

Q. Those are all the proofs of charges the governor presented to the senate on which he acted?

A. I think so.

Q. Now, the affidavits which these gentlemen presented to the governor contained items which naturally would lead the governor to come to those conclusions, did they not?

A. I think they would; I think any man would, supposing them to be true.

Q. When these witnesses came on the stand before this committee, they swore to an entirely different state of facts, didn't they?

A. They flatly contradicted themselves as I understand the English language.

Q. So much for the evidence on which the governor acted. Now I will come down to the history of your connection with this bank; I do not understand you to say that you mean to impute wrong motives, directly or indirectly, to the governor, but it was simply a fact that he was deceived by those papers?

A. I presume no motive, exactly; I presume the governor would have acted as I would have acted on such papers, assuming them to be true, as he had a right to.

Q. When did you first have your attention called specifically to this bank; I mean in connection with this matter?

A. Mr. Bellamy came into my office with Gen. Wood, and was introduced by Gen. Wood, of Albany, or Gen. Wood introduced him to me in the early part of October, 1874; he brought in and showed to me the summons and complaint paper which has been put in evidence here.

Q. [Handing paper to witness.] Is this the paper which he showed to you.

A. That is the paper.

Q. The paper which has been introduced in evidence ; what did he say he had done with the summons and complaint before he went to you with it ?

A. He said he had been to see the attorney-general ; that they had prepared this paper with a view to closing up this bank ; that he had been to see the attorney-general and laid the case before him, and the attorney-general declined to act, stating as his reason that he didn't commence proceedings against a savings bank unless recommended by the bank department to do so, and he further stated that the deputy attorney-general, Mr. Fairchild, said he had confidence in the bank department, and he would wait their action in the matter ; we looked over the summons and complaint, and schedules and affidavits attached, and I sent for the reports that the bank had made—the examiners' reports and the officers' reports—and we instituted a comparison between the report of these two trustees.

Q. Mr. Floyd and Mr. Gregory ?

A. Mr. Floyd and Mr. Gregory, and the reports on file in the department ; I was very much surprised, and so expressed myself to him, that there was a difference between the report furnished us and the report that Mr. Floyd and Mr. Gregory made, and after talking the matter over and making the comparison, I stated to Mr. Bellamy that Mr. Floyd and Mr. Gregory were perfect strangers to me, that I had never seen an officer or trustee of the bank, and that this was a very grave matter, to institute proceedings to close up a savings bank which had been in operation twenty odd years, and that I should not feel justified in acting on the statement of strangers, but that I would go at once to New York, and take an expert and make an examination of that bank to satisfy myself of what my duty in the premises would be ; I saw him, and he went out and came in again in the afternoon of that day, and had some little conversation, I don't remember particularly what.

Q. You decided there, after talking with him, that you would come down, and make an investigation of the bank ?

A. I did ; I volunteered, and told him that I would come immediately.

Q. And you did come down at once ?

A. I did.

Q. With him ?

A. I am not certain about coming with him ; he thinks I did ; my impression was I came the next day, but I came at once.

Q. You came at once ?

A. I came at once.

Q. He says you came with him ?

A. I may have come on the same boat or train with him ; I didn't come in company with him.

Q. You came down here ?

A. I came down here.

Q. And after you came here, you went and saw Mr. Floyd and Mr. Gregory ?

A. I went into Mr. Gregory's office in Wall street, before I made any examination, and talked with him about it.

Q. Did Mr. Gregory have a report of Mr. Floyd, and his examination of the state of the bank to July 1st ?

A. I don't think he showed me the report ; he had minutes on his books ; I don't recollect seeing them.

Q. Did he have some figures there, and statements, which he claimed showed a deficiency of \$181,000 ?

A. He did ; he showed me figures, and claimed that there was such a deficiency.

Q. In looking over those figures, did you find that they had left out this item of \$102,000 cash entirely ?

A. I found he had not credited the bank with any cash whatever on the 1st of July.

Q. And you called their attention to that ?

A. I did ; I think afterward ; I don't think I did at that time ; I think at the Metropolitan hotel that question came up.

Q. Did a discrepancy of \$102,000 tend to give you confidence in the report and examination which they made ?

A. Not particularly.

Q. Their leaving all the cash which the bank had out ?

A. It was a pretty big error against the bank, to start with.

Q. And wiped out a large portion of what they claimed to be a deficiency, didn't it ?

A. Brought it down to less than one-half considerably.

Q. After hearing his claim where did you then go ?

A. I went up to the bank, and commenced the examination.

Q. Had you in the meantime obtained Mr. Reid, your examiner ?

A. I had.

Q. Did he come there with you, or did you find him there ?

A. No, sir, I found him ; I don't know whether he went with me to Mr. Gregory's office or not ; it seems to me he did before we went to the bank.

Q. In any event you and Mr. Reid went there to the bank and commenced your examination ?

A. We did.

Q. And you went through with the examination ?

A. Yes, sir

Q. And completed it ?

A. Yes, sir.

Q. Tell me the character of the examination?

A. Well, we went into the bank—

Q. Did you make a thorough examination of the bank, sufficient to satisfy yourself as to its solvency or insolvency?

A. I thought so at the time.

Q. How long were you there in your examination and investigation in relation to the securities?

A. My recollection is that I was there on that matter about from a week to ten days; we were not all the while in the bank; we were making comparisons and ascertaining values, and getting such light on the subject as we could.

Q. Did you look over the books of the directors there, somewhat?

A. I looked over the minutes to some extent; I might say here in the first conversation with Mr. Gregory, he made a considerable point against the officers of the bank, so much so that I got the idea, which afterward turned out to be true, that there was a difficulty among the trustees—a faction which was at variance with the majority of the board, and going there with that idea I looked over the minutes to see what I could find in regard to it.

Q. Did you talk with the officers of the bank in regard to the position which Mr. Floyd and Mr. Gregory were taking in connection with that?

A. I did.

Q. What conclusions did you come to as to the position which Mr. Floyd and Mr. Gregory occupied toward the remaining directors of the bank?

A. Well, my conclusion was that there was hostility between them; that it was one set working against the other.

Q. Two men against the balance of the board?

A. As it appeared then; at that time they were all strangers to me; I had never met one of them.

Q. Had you had any communication with either the trustees or the officers of the bank before?

A. Never, except in an official way.

Q. That is by reports?

A. By reports, that I recollect of.

Q. I will ask you how many different deficiencies these two gentlemen had presented, if you can tell?

A. I think my recollection is they struck four different balances.

Q. You include Mr. Best's balance, also, now?

A. No, I don't.

Q. There is one balance in the report in which these two gentlemen claim there was a deficiency of \$255,000?



A. Yes, sir; that is one of the date of the 1st of July; they all relate to that date.

Q. Another deficiency based on this examination by these two men, of how much?

A. \$181,505.

Q. And another deficiency based on the same examination, as of the same date, by these same men, and sworn to by them, of \$115,000?

A. Yes, sir, \$115,993; then there is still another in that complaint of about \$100,000.

Q. That is an affidavit in which they swear it is about \$100,000?

A. Yes, sir.

Q. Now, there were presented to you by these two men, who were complaining, these four different deficiencies, made by these two men on the same examination, as of the same date?

A. That is what there were.

Q. Did that tend to give you confidence in the result of their examination or in their action?

A. I cannot say that it did; it excited my suspicion somewhat that they had been very careless in their examination, or had a motive in it.

Q. You went on and made the examination for yourself?

A. I did.

Q. With the aid of your examiner?

A. Without any bias for or against any of the parties; they were all strangers to me, as I said before.

Q. Mr. Best subsequently makes an examination of the same date in 1876, and he figures out a deficiency of \$201,000, does he?

A. A deficiency of \$201,617.52.

Q. What do you mean by a deficiency; is it an actual deficiency, or a constructive deficiency?

A. Well, when you speak of an actual deficiency I don't suppose that can be determined until an institution is closed up and sold out, and a balance struck.

Q. And the assets disposed of, and the case realized?

A. Then it becomes an absolute deficiency, but up to that time it must be constructive.

Q. It depends upon the values that are put upon the assets of the institution?

A. Yes, sir; that is illustrated by Mr. Best's own estimate of the value of the bank building; he put it in as assets at \$65,000, but he brought the superintendent here to swear that in 1874 it was not worth but \$50,000.

Q. While he in 1876 valued it at the appraised value of \$65,000?

A. Yes, sir; which shows that men differ in their judgments; we are all liable to make mistakes.

Q. [Handing book to witness.] I now show the report of Mr. Reid to you as to the result of that examination of yourself and Mr. Reid; does that contain the assets and the values which were affixed to the various assets by you and Mr. Reid on that examination?

A. It does.

By Senator ST. JOHN :

Q. That is October 5th, 1874?

A. Yes, sir; that is the date when I commenced, and it ran along a week or ten days; those were the estimates we made, those were the figures.

By Mr. CHAPMAN :

Q. Now, an effort has been made here by my friends on the other side to show that your estimates of these assets were inflated; now, I wish to take these up one after the other right along down through, and see whether they are inflated or not; the first item which you find there is what?

A. Bonds and mortgages.

Q. Value carried out at how much?

A. \$732,650.

Q. What is the next item?

A. Tennessee State bonds, sixes.

Q. Give the percentage?

A. We put them in at 58½.

By Senator ST. JOHN :

Q. Par value?

A. 168,000 at 58½.....	\$98,280 00
Alabamas, 166,000 at 50.....	83,000 00
North Carolinas, 114,600 at 30.....	34,380 00
South Carolinas, 155,000 at 17.....	26,350 00
New York cities, 40,000.....	40,000 00
New York cities, 275,000.....	275,000 00
Brookly City Park bonds, 240,000 at 103¼.....	247,800 00
Brooklyn and Wallabout Bay, 10,000 at 102½.....	10,225 00
Buffalo city, 130,000.....	130,000 00
Rochester city, 256,000.....	256,000 00
Oswego city, 197,000.....	197,000 00
Yonkers town bonds, 21,000.....	21,000 00
Morrisania town bonds, 3,000.....	3,000 00

Westchester county, 10,000.....	\$10,000 00
Banking-house.....	100,000 00
Two houses in Brooklyn .....	20,000 00
One house in East 45th street, New York.....	16,000 00
Suspense account, balance of bankruptcy claim.....	10,000 00
Cash in vaults .....	12,000 00
Cash in Chatham National Bank.....	7,792 58
Cash in Oriental Bank.....	14,975 24
Interest accrued.....	47,070 00

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Q. Those were the assets of the bank which you found ?

A. Here is the Goulard judgment, \$5,090 ; that comprises them.

Q. Those are the assets you found in the bank ?

A. Those were the assets we found there.

Q. Now, I will take these items up one by one, and see whether you overvalued them, in the light of such evidence as you could get ; the first item is \$732,650, bonds and mortgages ; did you and Mr. Reid go down through these bonds and mortgages ?

A. We did.

Q. Now, as to the value of those bonds and mortgages in the complaint, which is sworn to by Mr. Floyd and Mr. Gregory, I would ask you whether they make any attack upon the bonds and mortgages, or their value ?

A. They do not, as I remember reading it.

Q. Do they not, in their complaint, swear that the bank had \$748,150 of bonds and mortgages on the 1st of July, and do they not, in their complaint, swear that that is correct ?

A. Yes, sir.

Q. So that Mr. Floyd and Mr. Gregory, in the papers which they left with you, both swear that that amount of mortgages was held by the bank, and were correct in value ?

A. That is what they swear to.

Q. And this is the testimony of these two gentlemen who are attacking you ?

A. Yes, sir.

Q. Now, let me refer you to the report which they made to the board of trustees as of the condition of the bank of that date ; did they not report the same amount of bonds and mortgages to the same value, \$748,150 ?

A. Yes, sir ; they reported \$748,150.

Q. So that not only do these two men, who were attacking this bank, report to the bank there is that amount of mortgages held by the bank, and they are worth their face, and they swear to it in the complaint, both of them ?

A. Yes, sir.

Q. I see you have the amount \$732,650, while they have it \$748,150 ; is that accounted for by one mortgage of \$16,000, being subsequently foreclosed on property in East 45th street, and bought in by the bank ?

A. I suppose that to be so ; we took the mortgages as we found them ; we counted what we found, and nothing else.

Q. And you found a piece of property not owned by the bank in July, bought in by the bank under foreclosure ?

A. Yes, sir ; the discrepancy in the amount is accounted for by a change of condition.

Q. The fact of your making this examination under the charges made by Mr. Floyd and Mr. Gregory, led you only to accept statements which they made, at least not as in favor of the bank, but rather against it ?

A. That would have that tendency, although I didn't pay much attention to that ; I took the thing as I found it.

Q. Now, the next item, you estimate Tennessee bonds at \$98,280 ?

A. Yes, sir, whatever appears there.

Q. In that sworn complaint, sworn to by both Mr. Floyd and Mr. Gregory, do they swear to the value of those Tennessee bonds at \$100,800 ?

A. They are so stated in the paper here.

Q. So that they swear to their value as higher than what you estimated ?

A. Yes, sir.

Q. And in the report which they made to the trustees, did they not report the Tennessee bonds as some \$2,000 or \$3,000 higher than what you estimated them ?

A. Yes, sir.

Q. So that you went under the valuation of these two men who were attacking the bank ?

A. Yes, sir.

Q. Now, as to the Alabama bonds, \$83,000, will you tell the committee how you ascertained that value ?

A. We looked over the market reports and found no sales ; I think the last sale we found was 90 ; there had been no sales after the default of interest, that I could obtain ; prior to that the bonds were quoted at 94, and perhaps higher ; from the best information I could obtain 30 was bid for the bonds and 70 asked, and no sales ; of course, it was a question of what would be a fair valuation to the bank on those securities, holding them ; it had got to be an arbitrary valuation — a forced one — that is an estimated one, and I took counsel.

Q. Tell what you did in order to ascertain the value that you put upon these bonds?

A. I went over to the Manhattan Banking Company.

Q. You and Mr. Reid together?

A. Mr. Reid and I went together, and I was there alone once or twice, and consulted with the president and cashier of that bank, a thing which I very often do, or other bankers here, on matters of doubtful value; matters of which I am in doubt; knowing them to be the State agent for the payment of interest on the State debt, I felt at liberty to talk with them particularly; I stated to them I came in regard to those Alabama bonds, and asked them how I could get at the value, and they suggested a certain firm that dealt in those securities; I don't remember the name, and Mr. Reid went out to ascertain from them what he could, and came back and reported substantially what I have said, that there were no sales, but 30 was offered and holders asked 70; that they had advised their clients not to sell; that they had assurances the interest would be paid, and they were in favor of holding the bonds; I talked to the officers of the Manhattan after this report was made, as to what would be a fair valuation in investigating the solvency or insolvency of a savings institution, what would be the fair value to put on those Alabama bonds, and we had quite a little talk, and the question came up how you could arrive at the value where there were no sales, and the question of the way the political economists establish values; where a man has a thing to sell, and another man wants to buy it, and they agree upon a price that one is willing to give and the other to take, that establishes the value of that article; that was talked over, and they finally suggested, and we did establish the value at fifty cents on the dollar, half way between the asking and bidding price.

Q. Whether you made a correct valuation at that time or not, did you make the valuations which you did make, the correct one in your judgment?

A. I did, most certainly.

Q. It is purely matter of opinion, is it not, under those circumstances?

A. Purely matter of opinion; the information that we got led to that conclusion.

Q. Now, in this complaint, sworn to by Mr. Floyd and Mr. Gregory, I would ask you if they do not carry out the true market value of these bonds as \$66,400?

A. They do.

Q. That is only some \$16,000 less than your valuation in that item?

A. They put them in at 40 and we put them in 50.

Q. There is simply a difference of ten per cent?

A. That is all.

Q. And this valuation was made by these gentlemen when they were proposing to attack the bank?

A. Yes, sir.

Q. So that in that item there would be only a difference of \$16,000 and a fraction?

A. \$16,000.

Q. What led you to cut them down so low?

A. Because the interest had defaulted.

Q. That is, the State had passed its interest?

A. The State had failed to pay its interest.

Q. Did you see that letter yesterday which came to Mr. Conklin from the treasurer of the State of Alabama, in regard to those Alabama bonds?

A. I did.

Q. Do you recollect when you made this investigation, upon these estimates, of these letters having been shown to you?

A. I do.

Q. That it was possible that the interest might be paid after that?

A. Not only possible, but he assures us in that letter that it is quite probable.

Q. It is possible that that letter may have influenced your mind in the valuation?

A. I have no doubt it did; if that letter had been the reverse, that they didn't intend to pay the interest on the bonds, it would have made a vast difference with me.

Q. What was got was under the official heading of the treasurer of the State of Alabama?

A. Yes, sir.

Q. Signed by the then treasurer?

A. Yes, sir.

Q. Now, I take the North and South Carolina bonds, amounting together in your valuation to \$60,730; those two blocks of bonds constitute all the remainder of the southern securities which you found on your examination held by the bank?

A. Yes, sir.

Q. Now, in regard to the value of those bonds, and the value of the Tennessee bonds generally, how did you ascertain as to that?

A. The examination I made was made from the printed records of market quotations; arriving at the exact figures was done mostly by Mr. Reid; I looked over the reports, and I don't profess to be an expert in stocks, or in their valuation, except as I have official reports, but I remember distinctly looking over the market quotations as carefully as I could, and arriving at these results; just the details of it I cannot now give.

Q. But did you, from the best examination you could make, give the correct value, in your opinion, of those bonds at the time?

A. I so thought, that was my intention at any rate.

Q. Now, I would ask you to look at the report of Mr. Floyd and Mr. Gregory to the board as of July, whether they do not return the North Carolina bonds at the same amount you figure, \$34,380?

A. Yes, sir, it so appears here.

Q. And the South Carolinas "not quoted, but worth probably \$25,000"?

A. Yes, sir, so it appears here.

Q. It appears from the report which they made in July previous?

A. Yes, sir.

Q. That is only a difference in the South Carolina bonds of \$1,350?

A. Yes, sir.

Q. Now I will ask you, in order to get at the additional proof in regard to both of these bonds, if you did not hear read from the minutes yesterday that a committee was appointed, after you made this examination, to see what could be realized from North and South Carolina bonds?

A. I heard such a report read.

Q. And Mr. Gregory, one of these men making these charges, was on that committee?

A. He was chairman of the committee.

Q. And do you recollect that it was read from the minutes of the board of directors what he reported those North and South Carolina bonds would sell for in round numbers?

A. I recollect it very well.

Q. How much did he report them?

A. \$60,000, in round numbers; that action was taken by a recommendation to dispose of those southern securities in the interest of the parties.

Q. So that there is only a difference, between your valuation and theirs of both those blocks of bonds, of about \$700?

A. Yes, sir.

Q. This comprises all of the southern securities held by the bank?

A. Yes, sir.

Q. Now, the point has been made here by Mr. McKeon that these investments were illegal investments; this bank had not invested in these when you were at the head of the department, had they?

A. No, sir.

Q. They had been invested in by the bank under Mr. Howell's administration?

A. Prior to my administration; I think under Mr. Howell's; I am not positive about that, but it was prior to mine some years.

Q. By virtue of the law, as it stood, savings banks of New York

and Kings county had the right to invest in these bonds, provided their cash value was equal to par?

A. That is the language of the law, I believe.

Q. Let me call your attention to an act passed April 15, 1853, entitled "An act relative to savings banks, or institutions for savings in the city and county of New York, and county of Kings"; I call your attention to section 1 of that act; so far as it is applicable to this case it reads as follows: "It shall be lawful for the several savings banks \* \* \* in the city and county of New York \* \* \* now chartered \* \* \* in addition to the powers granted by their respective acts of corporation to \* \* \* purchase of any stock or securities, for the redemption or payment of which the faith of any State in the Union shall be pledged \* \* \* provided that the cash value of such stock or security shall, at the time of making such investment, be at or above its par value"; now, if, when these banks purchased these securities, their cash value was at or above their par value, they had a right to invest in them?

A. I so understand it.

Q. And theses purchases having been made under a former superintendent of the department, and having been passed by the department in their reports, and your attention not having been called to the question whether they had been illegally invested in or not, you had a right to assume that they had legally invested in them?

A. I thought so; I supposed the question of fact on which the whole thing depends, as I was advised by the attorney-general, that is, whether they were worth par — whether the cash value was equal to par, was a question of fact I had a right to assume, was disposed of by the department when they were purchased; the law provides they may, under certain conditions, hold those stocks; if they have a right to purchase, they have a right to hold as an investment; I had a right to assume that the question of fact that might be involved was disposed of by the department when they were purchased.

Q. Now, these two gentlemen, Mr. Floyd and Mr. Gregory, who are making these charges against the bank, did they charge that these investments had been made illegally by the bank?

A. Never; there never was any such complaint made to me at any time.

Q. Was any complaint or intimation made to you by Mr. Bellamy, the attorney of these gentlemen, or the gentlemen themselves, or by anybody, that any of these investments were illegal?

A. Never an intimation.

Q. Was there any thing said to turn your attention to the question as to whether they had been legally or illegally made three or four years before?



A. Nothing except the law and the matter of record; in fact my attention never was specially called to it.

Q. What do you say in regard to your having heard about the opinion of the attorney-general, whether you got the idea from some thing there said that the attorney-general had passed upon the question, or whether you saw an opinion?

A. I was advised at the bank, when the question came up about these—I raised the question in the bank myself whether they had a right to hold these securities, and various other questions were raised in the same way to get at the truth of the facts, and the officers claimed they had an opinion from the attorney-general procured in a certain way, and described the way in which it was decided, that they had a right to purchase these bonds; I went to Albany the other day to the attorney-general's office, to see what there was there about it, and what correspondence there was, and I found no opinion filed there, but a correspondence from the bank department that showed that such an opinion had been rendered, that is, an opinion on the subject; then I went to the attorney-general's office to see if there was any correspondence between the attorney-general; I had been informed there was a correspondence between the attorney-general and the officers of the bank.

Mr. McKEON—I think there ought to come out of this answer that there had been some correspondence, and an opinion given to the bank department; that is matter of record.

The WITNESS—It was claimed there were two opinions given at different times; that was the claim, and I went to the attorney-general's office to see if I could find any correspondence relating to it, and I was informed by the head clerk, and saw the pigeon-holes, that all the correspondence from January, 1869, to 1872, in the attorney-general's office was gone—missing—could not be found; that covered this period, so that I had to stop where I was; that is what the head clerk informed me, and he showed me the rack properly indorsed, with the letters abstracted; letters from 1869 to 1872, all properly filed, and there were no letters there; he said, "They are gone."

Q. Of course, if the attorney-general had passed upon it, to the effect that they had a right to invest in those bonds, you had a right to assume that they paid par for them?

Senator ST. JOHN—I think not; the reports of the bank show they were bought at much less than par; the report and the minutes both show they were bought at less than par.

The WITNESS—They claim that sales were made by some one or more parties abroad at par; that the market value was established in that way, and then they bought as cheap as they could.

Q. You acted, then, in the light of the circumstances surrounding you, with the best judgment you could exercise at the time, did you not?

A. Well, I thought so at the time.

Q. There had been no charge of any illegal investment made to you?

A. None whatever.

Q. And whatever was said in regard to it came up incidentally?

A. That is all.

Q. And these two men, who here make charges against the bank, had not intimated to you that there was any thing illegal in their investments?

A. Nothing whatever; the question came up in the bank when we were making the examination, and I advised them to get rid of those southern stocks, no matter what they were worth; to get rid of them and get their money into stocks that did bear interest and paid interest; which they promised to do as fast as they could, and did, I think, sell some.

Q. Now, I will ask you in regard to the remaining municipal bonds, amounting to about \$120,000 of the assets of the bank; I will ask you whether, in your valuation of those municipal bonds, you put them above what they were worth?

A. No, sir; I think I put them lower than what they were actually bringing that day, or could be sold for.

Q. You heard Mr. Moran testify in regard to the value of those bonds the other day?

A. I did.

Q. The witness brought by the prosecution here?

A. I did.

Q. Taking his views and his estimate of these bonds, would they go under or over the estimate which you put upon them at the time of the examination?

A. They would go over.

Q. His prices were given, he said, as bidders' prices?

A. Yes, sir.

Q. Did he say to you that he had that very day bought some securities at one per cent and sold them four per cent higher?

A. He told me that day that he had bought certain of these bonds, but didn't designate them, at a price, and sold and had made four per cent; that is what he stated to me.

Q. These municipal bonds you value by dealing with private brokers?

A. Yes, sir.

Q. They are not on the stock exchange?

A. They are sometimes quoted in the reports of journals, and sometimes not.

Q. This \$120,000 of bonds takes the whole of the remaining bonds now, from the knowledge which you obtained subsequently in regard to the appreciation of those \$120,000 of bonds, did you ascertain that you had, in fact, valued them too low in your examination ?

A. I found they appreciated very materially and largely from the valuation we put on them.

Q. And within a very short time after, did they not ?

A. Yes, sir.

Q. There is a large block of Rochester bonds ; you resided in Rochester formerly ?

A. I did ; that is my home now.

Q. You were familiar with those bonds ?

A. I knew of them.

By Senator ST. JOHN :

Q. Did the South Carolina and North Carolina and Alabama bonds appreciate afterward ?

A. Some of them did ; they appreciated several per cent.

By Mr. CHAPMAN :

Q. The item here of the banking-house, you valued that at \$100,000 ?

A. I did.

Q. There were two witnesses here yesterday who swore as to their value being from \$100,000 to \$103,000 and \$110,000 ?

A. Yes, sir.

Q. You made inquiries in regard to the value of the banking-house at the time ?

A. I did.

Q. Inquiries in regard to the bank property ?

A. Not so much in regard to that ; they had just taken it on foreclosure, and I saw the amount of the loan, and the appraisal of the property, and I estimated it ought to be worth what they put it in at, from the fact that the appraisal showed it was worth nearly twice that ; I took it on the same basis that I would a bond and mortgage.

Q. Some three or four witnesses, dealing in real estate, were here yesterday testifying that they placed the value of it from \$30,000 to \$32,500 ?

A. \$30,000 to \$35,000 is my recollection.

Q. Did you put in those values according to the best light you could obtain ?

A. I did.

Q. Examined sufficiently to satisfy yourself in regard to it?

A. I did; I was thoroughly satisfied.

Q. Now, the next item of your bill of \$16,000 you allude to, under the head of bonds and mortgages?

A. That was the cost under foreclosure of that property; it was stated it was renting for over ten per cent of the amount.

Q. There has been no evidence given, attacking that account?

A. No, sir.

Q. Now, we come to the item of \$10,000 suspense account, balance of bankruptcy claim; how did you get at that estimate?

A. Well, the reports to the bank department showed it was originally reported at \$41,000 to the examiner; it was subsequently in the reports put down to \$20,000, or thereabouts; I saw a letter from the receiver in that estate, and also from the attorney of the bank, in which they thought they would realize fifty per cent of the original claim, but I cut that in two and made it \$25,000.

By Senator COLEMAN:

Q. Was that suspended claim against a bank?

A. No, sir; against an estate.

By Senator ST. JOHN:

Q. Joslyn & Co.?

A. I suppose that is it; it was in the hands of the receiver; the officers complained a good deal of putting it in so low, insisting it was worth fifty cents on the dollar; of course it was a matter of opinion about that, but I thought I would be safe by halving, and I cut it down one-half from what it had been reported.

By Mr. CHAPMAN:

Q. It was originally \$41,000?

A. Yes, sir.

Q. And you cut it down to \$20,000 once before?

A. It had been in the report put down at fifty cents on a dollar.

Q. And you cut that down one half in order to be safe?

A. Yes, sir, I halved it.

Q. The next item is \$12,000 cash in vault; was that capital, and did the company have it?

A. Yes, sir.

Q. The next item is Chatham National Bank, \$7,792.58; did you get a certificate from the bank or examiner in regard to that?

A. We got certificates from the bank.

Q. That is the Chatham National Bank?

A. Yes, sir.

Q. The Oriental Bank?

A. The same way with regard to that.

Q. The interest alluded to, how did you get at that, \$47,070?

A. We got that by computing interest on the bonds and mortgages and all the securities from the time it was last paid up to that time.

By Senator COLEMAN:

Q. Did you count any interest on the North and South Carolina bonds?

A. No, sir; that I think was a matter not absolutely correct, but it was figured up to get it approximately.

By Mr. CHAPMAN:

Q. That passes over all the items of assets belonging to the bank at the time; now, generally, let me ask you whether you over-estimated or under-estimated those securities and assets, whether you made a conservative valuation, as you thought, from all the light you could get possession of?

A. That was the intention, to make a fair valuation, to estimate the solvency of the institution, to make it as conservative as the facts would warrant; in matters of opinion men differ, of course, and it is pretty difficult sometimes to reconcile their different views.

Q. Now, the Goulard judgment, \$5,090, you didn't make any statement in regard to that?

A. No, sir.

Q. Now, I see that you charged against the bank, at the time of your examination, "Interest accrued, \$36,000"?

A. Yes, sir; we put that in as a liability.

Q. If you had deemed it your duty to have reported to the attorney-general, should that liability have gone in?

A. It would not have gone in, of course.

Q. That is the interest on the deposits to depositors from July 1st up to that time?

A. Yes, sir.

Q. But in case the bank went into the hands of a receiver the depositors would not have any right to have any claim upon you in regard to it?

A. They would have got what there was in the shape of assets, but they would have lost their interest, of course, from July 1st.

Q. So that on that examination, I ask you if there was an actual deficiency from that examination — if there was an attempt to throw them into the hands of a receiver?

A. There was not, there was a surplus.

Q. And this constructive deficiency, which you found, amounted to only about one per cent on the assets?

A. About one per cent.

Q. Is that a very slight deficiency?

A. I think it is so generally regarded, as a slight deficiency, one per cent.

Q. A very slight appreciation of the assets would have lifted it out of that deficiency, would it not?

A. Yes, sir; one-quarter of one per cent on the whole securities would; it didn't require as much of a change as there was in New Jersey Central Railroad stock.

By Senator ST. JOHN:

Q. As I understand, you say if the bank had been put in the hands of a receiver at this time there would have been a surplus?

A. No, I mean on our figures; we should have left out the interest accrued.

Q. By throwing out this \$36,000 it would have shown a surplus?

A. It would have shown a surplus in favor of the bank.

Q. You don't mean by that to say that if you had put it in the hands of a receiver, then the bank would have been able to pay its depositors?

A. I don't say that at all; looking back over two years I don't mean to say any thing of that kind, I simply say there were portions of that debt, if we had not charged as a liability to the bank interest due to depositors that day, there would have been a surplus on the books.

Q. You deemed that a fair charge to make at the time, did you not?

A. Certainly, that was with the idea of getting at the true condition of the bank; they owed depositors \$36,000 interest, assuming they paid six per cent dividend, provided they went on.

Q. They owed it to them any way?

A. Well, they owed it to them if they earned it — if they had it; according to law they don't owe depositors any thing until they have got it, but it is the practice of the bank to go on and pay a regular rate.

By Mr. CHAPMAN:

Q. I will call your attention to section 1 of chapter 693 of the laws of 1871; was that the law under which you were acting in connection with the examination of this bank?

A. That was the law.

Q. Let me read that portion of it which applies to you in making that examination; a portion of that section under which you were acting reads as follows: "Whenever it shall appear to the superin-

tendent that it is unsafe, or inexpedient, for any savings bank \* \* to continue to transact business, he shall communicate that fact to the attorney-general, whose duty it shall then be to institute such proceedings against such savings bank as, or now, or may be hereafter authorized by law in case of insolvent corporations." Now, I will ask you whether at that time, as the result of that examination, it did appear to you that it was unsafe or inexpedient for this savings bank to continue to transact business?

A. When do you mean?

Q. At the time of the conclusion of the examination?

A. At the time of the final conclusion, or at the time we made the examination? it was not concluded until December.

Q. At the time of your making the examination in the fall of 1874?

A. I didn't deem it expedient.

Q. Did you deem it unsafe or inexpedient for this savings bank to continue to transact business?

A. I did not; and for that reason I made the requisition on them to make good the apparent deficiency, which was made good.

By Senator ST. JOHN:

Q. Was made good?

A. Yes, sir.

Q. The \$25,000?

A. Yes, sir.

By Mr. CHAPMAN:

Q. I will ask you whether, if good times had come after this examination, in your opinion, there would have been any difficulty in the bank going on and succeeding?

A. I don't think there would have been.

Q. Did you, in making this examination, anticipate any such shrinkages of values as occurred afterward?

A. No, sir, I didn't; if I had I would have done differently with some of my own private matters; I don't think any one fully realized what the condition of things would be in 1876 and 1877; it would take a very wise man to do that, and he would be a valuable man to employ.

Q. You returned after this examination to Albany?

A. Yes, sir.

Q. Taking the figures with you?

A. Yes, sir.

Q. After looking them over and thinking of the matter, did you write to the president of the bank?

A. I did ; I didn't get back to Albany until quite a number of days after we commenced the examination ; I should think about the 15th of October ; we commenced the examination about the 5th of October, and I think I got back to Albany about the 15th ; I am not sure about that.

Q. On the 19th of October, 1874, did you send a letter to Mr. Conklin, which had been introduced in evidence ?

A. I did, if that is the date ; that is taken from the official letter book.

Q. [Handing letter to witness.] Is this the letter ?

A. Yes, sir.

Q. Now, you state in there that some persons might make the deficiency \$50,000 ; what is your idea in regard to that ?

A. They might differ in their judgment in regard to valuations ; where they were of doubtful value, not marketable values, different men would differ in their judgment, as they would in the value of a horse ; one man might put one price on him, and another, another, according to his own judgment.

Q. Did you receive a letter from Mr. Conklin, the president of the bank, in response to that, informing you of his sickness, and asking for a little delay until the board could meet ?

A. I received a letter, I don't know whether from Mr. Conklin, or from the secretary ; we had some correspondence, in which it was alleged he was sick with sciatica, and confined to his bed.

Q. [Handing letter to witness.] On October 24th, in response to yours of the 19th, did receiver this letter ?

A. Yes, sir.

Q. Signed by Mr. Conklin ?

A. Yes, sir.

Q. Are you acquainted with his signature ?

A. Yes, sir ; that is his signature.

Mr. CHAPMAN — I offer this letter in evidence, dated October 24th, 1874, and read it :

“MECHANICS AND TRADERS' SAVINGS INSTITUTION, }  
NEW YORK, *October 24, 1874.* }

“HON. DEWITT C. ELLIS,

*“Sup't Bank Department, Albany :*

“DEAR SIR — I have the honor to acknowledge receipt of your communication of the 19th inst. The gravity of the matters therein contained demand earnest attention and practical action on the part of our board of trustees.

“It will be submitted to them at our next meeting, and their conclusions reported. Very respectfully yours,

“A. T. CONKLIN.”



Q. [Handing letter to witness.] Did you subsequently receive this letter from Mr. Fisher, secretary of the company, on November 11th?

A. Yes, sir.

Mr. CHAPMAN — I offer this letter in evidence, dated November 11th, 1874, from H. C. Fisher, secretary of the company, sent to Mr. Ellis; I will read this letter:

“MECHANICS AND TRADERS’ SAVINGS INSTITUTION, }  
NEW YORK, *November 11th*, 1874. }

“Hon. D. C. ELLIS,

*Superintendent Bank Department, Albany:*

“DEAR SIR — The regular monthly meeting of our board was held on Monday evening last, and your letter to the president duly presented and read. As the president has been confined to his room by illness for the past two weeks, and consequently unable to confer with the board on the subject-matter of your communication, and as in addition the attendance of members was limited (one-third absent), it was deemed best, in order to facilitate ‘business,’ to appoint a committee to take the matter in hand and report action thereon at an adjourned meeting to be held next week.

“Trusting to be able to advise you of a satisfactory termination of the matter, I am,

“Very respectfully yours,

“H. C. FISHER, *Secretary.*”

Q. Did you understand that the committee was appointed to take the matter in hand and report upon it?

A. I was so advised.

Q. Did you subsequently receive a letter dated December 22d, 1874, from Mr. Conklin?

A. Yes, sir, I received that letter December 23.

Mr. CHAPMAN — I offer this letter in evidence, and read it:

“MECHANICS AND TRADERS’ SAVINGS INSTITUTION, }  
NEW YORK, *December 22d*, 1874. }

“Hon. DEWITT C. ELLIS,

*Superintendent Bank department, Albany:*

“DEAR SIR — Our senior vice-president, James Ross, Esq., and self propose calling on you in Albany on Saturday next, the 26th inst.

“Will it suit your convenience to be at your office on that day?

“Respectfully yours,

“A. T. CONKLIN, *President.*”

Q. You replied to him that you would meet him on that day?

A. That is my recollection.

Q. At any rate you did meet him?

A. I did meet him.

Q. He and James Ross, purporting to be members of this committee ?

A. Yes, sir, the president and vice-president waited on me.

Q. Will you state what was done there ?

A. They came up there, as they said, in answer to this letter of requisition ; they brought up the market quotations.

Q. Printed ?

A. Printed reports of sales, and a memorandum, which was in an unofficial form, showing the valuations of those securities as of that date ; I think it was the 26th of December ; I don't remember that date ; I took the list and looked it over with them.

Q. I will ask you at this time whether it was your idea that they had sold the Brooklyn park bonds, a block of \$24,000 ?

A. They had.

Q. Which you had estimated at  $103\frac{1}{4}$  in your examination ?

A. Yes, sir.

Q. They had converted these bonds into cash at an advance beyond what you valued them at in the October previous, of about \$12,000 ?

A. They so reported, and the subsequent report of the 1st of January confirmed that.

Q. Now, I will call your attention to the report which they made to the bank department as of the 1st of January following ; did they, in that report, report to you some four hundred and seventy odd thousand dollars in cash ?

A. They did.

Q. On deposit and in the bank ?

A. On deposit.

Q. And did they report that these Brooklyn bonds had been disposed of and converted into cash ?

A. I think so.

Q. So that their statement to you at the time turned out to be correct, according to the reports under oath ?

A. Yes, sir ; so I think.

Q. So that this deficiency which you had, according to your valuation of October, one-half of it was wiped out by the conversion of this one block of securities, and the money was in the hands of the bank ?

A. It was.

Q. Were you knowing at the time of the fact that the Rochester bonds had gone up, from the time the valuation was made in October, down to the time of your making this valuation when this committee came up here ?

A. Yes, sir ; most all the municipal bonds outside the city of New

York had gone up quite materially; the Rochester bonds, there was a special reason for it.

Q. To your own knowledge?

A. Yes, sir.

Q. And did you look over with him to find out whether, at that time, this deficiency which you called upon the bank to make up had been entirely wiped out, and more, too?

A. I found this fact, taking the figures we placed upon their securities, as of October 5th, and the figures at which these securities were selling, the same securities, giving them the benefit of the appreciation and of the depreciation, we found that that deficiency was actually made up, and a surplus of some \$7,000, or \$8,000, or \$9,000, I don't remember the exact amount.

Q. And that without going over all the municipal bonds?

A. Yes, sir, only taking a portion of them of which I knew.

Q. On the first of January, following, when they reported the condition of the bank to you, they reported a surplus of how much?

A. The report shows; I don't remember the exact amount.

Q. Some \$60,000, or \$70,000, was it?

A. I think so.

Q. There had been a very marked increase in the value of these securities, had there not?

A. Yes, sir; and very decided in some of them.

Q. And these municipal bonds which you had put in at par, they had gone up to 106, and accrued interest?

A. Yes, sir; they sold as high as 114, some of them.

By Senator ST. JOHN:

Q. They were sold since?

A. Yes, sir; they went up from the 1st of January, 1874, perhaps, quite rapidly.

By Mr. CHAPMAN:

Q. Did you hear read, from the minutes of the board of directors, here yesterday, that some time in January, 1875, a portion of these municipal bonds had been sold at 106, and the accrued interest?

A. Yes, sir.

Q. Now, during this winter of 1875, after this January report come up to you—

A. I want to state something in regard to the time we made this bank comparison, and I found by the figures that the deficiency was wiped out, and they had a small surplus actually without going over all the figures—I found enough to satisfy me that I was in a position that I could not maintain an action against the bank on the ground

of insolvency, if my own figures that I had made in October were correct—that I would have no standing in court; I thought then, and I think so now; I think they would have beaten me, if I attempted to close up the bank.

Q. So that in your opinion you would have been powerless to close up the bank?

A. That is my judgment.

Q. Now, from that time until 1876, when the bank examination was made, on which the bank was closed up, did you hear any complaints from the bank, or of the bank?

A. Never.

Q. Did the fact that these two gentlemen, Messrs. Floyd and Gregory, remained there in the bank as watchers of the bank, not making any complaint to you, tend to lead you to think that there was no difficulty?

A. That was the conclusion that I came to; I had no reason to think that they were dissatisfied with the conclusion; they had the same power at any time to move upon that bank, as trustees, that I had as superintendent, and the fact that they took no steps in that direction and made no complaint, and made no suggestion whatever, was evidence to my mind that things were all smooth or satisfactory.

Q. And did you request Mr. Reid to occasionally go into the bank and see how they were getting along?

A. I did; I told him to keep an eye on it.

Q. And reports, so far as you got them, indicated that the bank was progressing properly?

A. Yes, sir; I was assured that Mr. Gregory was acting in accord with the rest of them.

Q. Did you hear any thing, or know any thing, or have intimation about any suit between Mr. Gregory and Mr. Conklin, for the purpose of obtaining the presidency from Mr. Conklin in 1875?

A. That was between Mr. Floyd and Mr. Gregory; no, I never heard any thing about it.

Q. Was there any thing to awaken suspicion in your mind that occurred during 1875?

A. No, sir.

Q. Or down to the time when you received the report of Mr. Reid, his final examination?

A. No, sir; in the latter part of 1875 we were very busy with other matters.

Q. During the latter part of 1875, how many institutions did you have under your control as superintendent?

A. Something over four hundred.

Q. Mention the character of the institutions?

A. The State banks, savings banks, trust companies, mortgage and loan associations, safe deposit companies, building associations, and other companies known as mortgage companies, but not coming under the general head of trust companies.

Q. There came a panicky feeling in savings banks along in 1875, did there not ?

A. Yes, sir.

Q. I will ask you whether in the latter part of 1875 and the fore part of 1876 your department and examiner were kept as busy as you generally are in connection with other banks ?

A. We had a very large force at work at that time.

Q. All you could do ?

A. Yes, sir ; and a great deal more in some cases ; after we commenced to close up savings banks—I commenced on the Third avenue—there was a good deal of it.

Q. There was no report in July, 1875 ?

A. No, sir.

Q. The savings bank law which had passed that winter didn't require a semi-annual report ?

A. No, sir ; it required an annual report.

Q. So that you had no direct report from them until January, 1876 ; the report would not be presented to you the fore part of January, would it ?

A. No, sir ; they get in the latter part of January, and very often have to be sent back and corrected ; as a matter of fact, we don't get them all completed until the 1st of March.

Q. Is it a fact that during the session of the legislature your attention is largely taken up in connection with bank legislation ; that is, especially during 1875 and 1876 ?

A. It was in 1875, more particularly, when they passed the general savings bank act ; I met the committees very frequently, and spent a good deal of time over the bill.

Q. The bank report in 1876 showed a surplus ?

A. Yes, sir.

Q. A decreased surplus ?

A. Yes, sir ; they were required to report the real estate at cost.

Q. That would account for a large depreciation in the surplus ?

A. Yes, sir, and their bank building particularly.

Q. Prior to the savings bank Act of 1875, they reported the real estate at the market value ?

A. Yes, sir.

Q. They were required to do so by law ?

A. Yes, sir.

Q. After the savings bank Act of 1875, under which they reported January 1st, 1876, they were required to report the building at cost ?

A. Yes, sir.

Q. That made a large depreciation?

A. Yes, sir, it did in this case.

Q. And that accounted somewhat for the lessening of the surplus?

A. It would in most all of them, I guess; not all but a great many; we were in the habit of reporting the market value.

Q. At that time there was said to be a depreciation in real estate, and in all securities?

A. Yes, sir; on all securities.

Q. Very many?

A. In many, yes, sir; many were appreciated — certain classes.

Q. When did Mr. Reid make his next examination after October, 1874?

A. It was his regular examination, I think, in March.

Q. Along in 1876?

A. Yes, sir.

Q. After he made his examination, did he report to you?

A. He did.

Q. After you received the report, what did you do? did that report show a deficiency?

A. It did.

Q. What did you do?

A. I reported the fact to the attorney-general, and recommended him to apply for the appointment of a receiver.

Q. Do you recollect how long it was after you reported to the attorney-general before the attorney-general succeeded in getting a receiver appointed?

A. Well it was some little time before a receiver was appointed.

Q. The bank resisted the appointment?

A. It did, vigorously.

Q. And that caused delay?

A. I had nothing to do after making my recommendation to the attorney-general — I had nothing to do with the appointing of a receiver, but I know as a matter of fact they did resist, and there was considerable delay in getting a receiver appointed.

Q. And after you received the report of Mr. Reid, of his examination in 1876, you made your report and recommendation to the attorney-general right along?

A. At once; I was satisfied from that report that it was useless for the bank to undertake to go on; that they could not recover; their confidence seemed to be gone, which was true of a great many.

Q. Have you the date of the last report of Mr. Reid to you?

A. It is somewhere.

Q. In fact the depositors had been drawing out since November, 1875, very rapidly, and the bank would have been compelled to sell their securities in order to realize on them and pay depositors ?

A. It would appear so from the statement put in evidence yesterday ; the same was true of a good many banks in New York at that time.

Q. What had been the policy of the department, so far as you could ascertain, prior to your coming in, as to a bank, if they had a small deficiency on an examination, and on an estimated valuation, what would have been the policy of the department as to what was the best course for the bank to pursue for the depositors and in the interest of the depositors ?

A. It was to encourage the bank and give it a reasonable opportunity to recover ; that has been the policy, I think, of the department for years, not to close up the bank or force it into liquidation as long as there was a reasonable prospect of their being able to pay the depositors in full ; I think that is on the theory that a bank, barely solvent, if put into the hands of a receiver, cannot pay its depositors, because the expense will eat up the money ; and also a savings bank is founded on the confidence of the people, and not on capital, and the closing up of one is a shock to the whole system, and tends to injure the banks ; I think that is the view that has been taken of the matter generally.

Q. You heard Mr. Floyd's testimony the other day, in which he gave two reasons why he didn't put the bank into the hands of a receiver along in 1875, did you not ?

A. Yes, sir.

Q. One in the interest of depositors, and the other, the general effect upon other institutions of the same kind at that time ?

A. He stated that his counsel advised him on those grounds not to act.

Q. And he deemed it wise not to act ?

A. Yes, sir ; and he never did act, that I know of.

Q. Mr. Bellamy swears that you told him at Albany, when he was up there, that you did not approve of putting the bank in the hands of a receiver, if it could be avoided ; what would be your recollection in regard to that ?

A. I have no recollection of making any such statement ; I told him I didn't approve of putting it into the hands of a receiver on the examination of strangers ; that I would have to satisfy myself as to the condition of the bank ; I don't remember any remark of that kind ; there might have been.

*Cross-examined by Mr. McKEON:*

Q. Was it with Governor Tilden or Governor Robinson you first had any interview in relation to this matter?

A. Governor Robinson.

Q. When was that?

A. It was a day or two before the charges were sent in to the senate.

Q. What day was that?

A. I don't remember.

Q. Was your first knowledge of these charges in April, 1877?

A. The first official knowledge I ever had; all I knew about them was newspaper talk.

Q. In what way was it officially communicated to you?

A. By a letter from the governor, saying that such charges were lodged with him.

Q. Had you seen the charges in the newspapers?

A. I had.

Q. Had they not been made to Governor Tilden?

A. I cannot say from knowledge.

Q. Didn't the newspapers state they had been made to Governor Tilden?

A. Yes, sir; I say I saw in the newspapers in regard to it.

Q. Your office is in Albany?

A. Yes, sir.

Q. You didn't go to Governor Tilden to inquire whether there was any truth in it or not?

A. No, sir; I did not; I don't know that I ever spoke to him after that time.

Q. After you received this letter from Governor Robinson, what did you do?

A. I went to see him.

Q. You called upon him?

A. I called upon him.

Q. Did he put these papers in your hands?

A. No, sir; I never saw them at all until they were put in my hands by the senate.

Q. You never saw them at all?

A. He never showed me any papers.

Q. Did he ask you for any explanations?

A. No, sir.

Q. What was the object of the communication to you; have you a copy of that letter?

A. His communication to me?

Q. Yes, sir?



A. Yes, sir.

Q. What was the purport of it ?

A. It was in reply to the one I addressed to him asking to be heard.

Q. Have you copies of that correspondence ?

A. I don't think I have, not here.

By Mr. CHAPMAN :

Q. You have them at Albany ?

A. Yes, sir ; I know they are there.

By Mr. McKEON :

Q. Can you give me the purport of your application to him ?

A. I told him that I thought I could satisfy him if he would give me a short time ; he stated he had not time to go into an investigation of the charges, and stated a good many other things that, perhaps, I ought not to state here ; but he had not time to go into the charges, and under the law he considered it his duty to send them to the senate ; I said I supposed he had the power to examine them himself.

Q. Is that in your letter ?

A. No, sir ; this is our conversation.

Q. I want to see how you got the information ?

A. That was after he addressed me his letter saying certain charges were lodged with him.

Q. And then you wrote him back you wanted to be heard ?

A. Then I had a personal interview with him.

Q. Did you answer him that you wanted to be heard ?

A. No, sir ; not then ; he declined at that time to give me any hearing at all ; he said he had not time, and I went back to the department and addressed him a letter formally requesting an opportunity of thirty minutes to explain the matter ; that was the substance of the letter, that, if he would give me thirty minutes time, I could satisfy him that these charges were groundless ; the next day, I think, I got a reply that he would give me an hour's time, and then I went over to him again ; the result of that is what is known in his charges to the senate, and he exonerated me from any intentional blame, that he thought I was guilty of neglect, and that if he had been superintendent, he would have closed that bank up.

Q. What charges did he state to you had been made ?

A. He said he supposed I knew what they were, that they were the same as had been preferred in the newspapers, substantially.

Q. Did you go on and state what you had done ?

A. I read him the reply I made to the newspapers the time the statement was published in the newspapers originally.

Q. Have you a copy of that reply?

A. It is in existence somewhere.

Q. Do recollect what the purport of that reply was?

A. Well, in answer to what was published in the newspapers; the newspapers said I didn't make any examination, that my attention was called to the bank and I never paid any attention to it; I took the charges very much as we have here, and showed from the official reports what was done, showing my examination and what we found, and the result of it, and my letter addressed to the bank officers, and their letter to me, etc.

Q. When you saw the charges in the newspapers, that Mr. Tilden had been addressed, you didn't address any thing to him at all?

A. No, sir; I didn't suppose it was my business to be instituting charges against myself.

Q. Did you call the attention of the governor to what may be called the inaccuracy, in your judgment, of Mr. Gregory and Mr. Floyd's affidavits?

A. No, sir; I did not.

By Mr. CHAPMAN:

Q. You didn't see these?

A. No, sir; I didn't go into a discussion of the figures at all.

By Mr. MCKEON:

Q. You never saw those affidavits then?

A. Oh, yes, sir; the affidavits in the governor's message?

Q. Yes, sir?

A. Except as they appeared in the newspapers.

Q. You saw them in the newspapers?

A. Yes, sir.

Q. Did you state in your reply these inaccuracies?

A. Those were after.

Q. Was not the substance of them long before that in the newspapers?

A. Well, I should think not, I don't remember positively about that; I cut out of the newspapers what I saw; there might have been something subsequently.

Q. You stated here that when your attention was called to the bank by Mr. Gregory and Mr. Floyd and Mr. Bellamy, you came down and went to the office of one of them, I think of Mr. Gregory, and there he had some figures on a piece of paper, whereby he proposed to show you the condition of the bank was one of insolvency; did you take this memorandum with you to the bank?

A. No, sir; I think I had the original paper — the original complaint containing those figures; I don't remember exactly about that; I won't say positively, but I think that was contained in a pass-book, or some book in the office; I don't think he showed me the report.

Q. You have stated here that these men made, on two or three different occasions, two or three estimates, and they made from \$115,000 to \$255,000; didn't these three different estimates create a very great suspicion in your mind as to the real condition of the bank?

A. They created the fact so far as they made it appear —

Q. Didn't even those different estimates create a great suspicion in your mind?

A. That the bank was insolvent?

Q. That it was in a bad way?

A. Yes, sir; it created this suspicion, that they had not been very accurate in their examination, the fact that they had made so many different conclusions on their own figures.

Q. Didn't it create the impression upon your mind that there must be something wrong?

A. That they charged, of course.

Q. Were you governed in your decisions in any way by the opinions of Mr. Gregory and Mr. Floyd as to the estimated value of any of these assets?

A. I looked over their valuations, and considered them as I would any other.

Q. Did they govern you at all?

A. Perhaps so, and perhaps not; I cannot say as to that positively.

Q. Was not the impression on your mind that these men were quarreling with their associate trustees?

A. Yes, sir; they stated that in substance.

Q. Did they have any influence upon you at all — their estimated values?

A. I don't think they did particularly; I had no part in the quarrel; they were all strangers to me.

Q. In the execution of your duty as superintendent did you suppose you would be employed in correcting the errors of Mr. Gregory and Mr. Floyd, or looking after the interests of the depositors?

A. I suppose it was to look after the interests of the depositors.

Q. And didn't care a pin about the errors of Mr. Floyd and Mr. Gregory?

A. No, sir.

Q. Had not your attention been called to the fact that there was a deficiency of income?

A. Yes, sir.

Q. Didn't that appear by the printed reports?

A. Yes, sir; and the reason for it.

Q. Look at page 297 of the report of the banking department, and read the note about the middle of the second page?

A. That is the examiner's report?

Q. Yes?

A. "The large amount locked up in southern State bonds, upon which interest is suspended, the failure to rent real estate, and the balance of an old bankruptcy claim have combined to reduce the income of the bank so much that a deficiency of over \$14,000 will occur for the current year. The trustees hope to realize something from the southern bonds and the sale of real estate."

Q. Whose memorandum was that?

A. That is the examiner's, I suppose.

Q. Approved of by you?

A. It appears in the report; I don't say that I ever saw it.

Q. Did you ever see it?

A. I presume I have.

Q. Was not your attention called to it?

A. Not especially, except as the report called it to it; it is not a very uncommon thing to find those deficiencies in income for a part of a year.

Q. Did you ever see that memorandum?

A. I saw it before.

Q. You saw it at the time?

A. Yes, sir; undoubtedly.

Q. And it was made by your examiner?

A. Yes, sir; that is, it was taken undoubtedly from his report, and debited, probably, in the office.

By Senator ST. JOHN:

Q. You don't mean to say but what these reports from the examiner of the bank are official documents, and that you adopt them as official?

A. No, sir.

Q. They are the official returns of the official officer, and are accepted as such in the bank department?

A. Yes, sir.

By Mr. McKEON:

Q. This report of your examiner states that the examination took place on the 31st of March and April 1st, of 1874?

A. Yes, sir.

Q. So that as early as that time your attention must have been called to the condition of the bank?

A. Yes, sir.

Q. When did these gentlemen come up with a complaint against them?

A. Mr. Bellamy came up; the others didn't come; he came up in the early part of October, 1874.

Q. When you got that paper you read it, I suppose?

A. Yes, sir.

Q. And saw the condition of things?

A. Saw what they reported.

Q. What they report under oath?

A. Yes, sir.

Q. And you came down to examine it?

A. Yes, sir.

Q. You went to the bank, and you went on to examine their assets?

A. Yes, sir.

Q. You found in accordance with this report of March, 1874, a large volume of southern securities?

A. Yes, sir; we found them in October.

Q. About \$600,000, was there not?

A. I don't remember the amount; quite a large amount; whatever appears there in that October report we found.

Q. Did you ask them when these were bought?

A. I think so.

Q. Are you sure whether you did or not?

A. I know that they were not bought during my administration.

Mr. McKEON — I am making an ideal superintendent.

Mr. CHAPMAN — And an impossible one.

By Mr. McKEON :

Q. You found these southern States other than our own as security?

A. Yes, sir.

Q. Did you ask, or not, "when did you buy them"?

A. I cannot state; I don't remember whether I asked them about them.

Q. Will you say you did?

A. No, I won't.

Q. You won't say you did?

A. I won't say I did, or didn't.

Q. You have no recollection of making any inquiry about them?

A. Of the precise time when they bought them?

Q. Yes?

A. I know they bought them prior to my appointment.

Q. How did you know that?

A. By the records.

Q. Did you examine those records?

A. I did; I examined the reports.

Q. Did you look at their books to find out?

A. No, sir; not the stock books; not with reference to that point.

Q. You never examined their stock book to see when they purchased them, or whether they bought, in compliance with the law, at par or above?

A. No, sir; I took their sworn official reports when they appeared.

Q. Did you consider yourself bound by their official reports in the execution of your duty as superintendent?

A. So far as we were bound to accept their reports, if we had no other knowledge.

Q. Are you a superintendent to overlook those statements?

A. I say, unless we have other knowledge to the contrary, we do accept them as matter of fact.

Q. But you see the report made by them every six months, as it used to be, and didn't you go down to test it?

A. They were all tested in the department.

Q. When you send your examiner, is it not for the purpose of testing those reports?

A. That is the object — to ascertain the condition of the bank.

Q. Didn't you consider it your duty to look at that stock book to see whether they had complied with the law?

A. That question at that time didn't come up in this form; there was no complaint made to me of the irregularities of those investments on the part of this man that made the examination, and my attention was called to the solvency or insolvency of the bank; I knew these securities were bought prior to my administration, and knew they were bought prior to my appointment.

Q. And never inquired when they were bought?

A. That question had been passed upon by the superintendent prior to my appointment; I didn't go into that part of the case at all, not having had any special motive in reference to it.

Q. You knew they had the bonds, and never inquired when they were purchased; that was about it, was it not?

A. I don't say I did or I didn't; I don't remember that particular point.

Q. Your attention was called to the condition of this bank by the examiner in March before?

A. Yes, sir.

Q. You had a sworn complaint, and your attention ought to have been particularly turned to this bank to the exclusion of these three hundred or four hundred other banks you had?

A. It was at that time.

Q. Did you begin by seeing whether the law was complied with in regard to the purchase of these bonds outside of New York?

A. It is a fact that a great number of banks and the best in New York, report every year southern State bonds ; every time I see that report I don't go back to ascertain when they bought those bonds, or what they paid for them.

Q. That is your practice — you don't.

A. Some of them have got southern State bonds that they carried for twenty years and over.

Q. You never inquire unless your attention is called ?

A. I don't.

Q. You say your attention was not called to the legality of these bonds by any one ; do you wait to have your attention called as superintendent ?

A. If I discover any thing that is illegal myself, then I don't wait ; if I don't discover it, I get my information from some one else.

Q. Are you not governed not only by the complaint made to you, but by what you consider your duty in regard to an investigation ?

A. Very probably I am ; I am supposed to be.

Q. You took up these securities, and the first thing you came across were these municipal bonds ?

A. No, sir ; the cash was the first thing.

Q. You found that all right ?

A. Yes, sir.

Q. Did you go to Mr. Gregory and Mr. Floyd and tell them you had found this out ?

A. No, sir.

Q. You did not ?

A. No, sir ; I didn't see them.

Q. You didn't send for them ?

A. They were not there at all.

Q. And you didn't take any trouble to show them that ?

A. I told them I was going to examine the bank, and if they had any thing to communicate I would like to have them there, but they didn't pay any attention to it ; and I went on and made the examination in the usual way, without reference to any one ; I went to see what I could find.

Q. You found those municipal bonds, and they appreciated in value ; how much would the total appreciation be of those municipal bonds ; how much had they appreciated between October and the 1st of January succeeding, 1875 ?

A. I cannot give you the exact appreciation ; as I stated on my direct examination, when I made the comparison in December, Tennessees had appreciated, and were quoted higher ; these municipal bonds had appreciated.

Q. You cannot tell me how much the municipal bonds had appreciated ?

A. I cannot in round numbers ; I can tell you what I found at that time.

Q. Tell me how much you had found, or did you inquire how much the Alabamas had appreciated at that time ?

A. We had the stock reports up there at the department, and in regard to the comparison I made, my recollection is we didn't find any change.

Q. There was no change in them ?

A. Not as I understood it.

Q. Had the Tennessees appreciated ?

A. I understand they had at that time.

Q. What evidence had you of their appreciation ?

A. I think the reports showed it, and I think they had sold some of those at that time at a higher price than we put them in at.

Q. How many had they sold ?

A. I cannot say now.

Q. Have you the paper from which you drew the statement that the Tennessees had appreciated ?

A. No, sir ; I have not.

Q. Had the North Carolinas appreciated ?

A. I cannot say as to that.

Q. Had the South Carolinas appreciated ?

A. I cannot say as to that ; my best recollection is, that there had been no quotable change in those southern securities except Tennessees, and I think they had been sold by the bank for some more than we put them in at.

Q. You went, I understand, to the Manhattan Bank to inquire as to the Alabamas ?

A. I went to consult with them to get at the fair value.

Q. And you were referred to some one that knew the value of them ?

A. Yes, sir.

Q. You don't recollect the name of the man ?

A. I do not ; they were strangers to me, but they were recommended by the gentlemen of the bank.

Q. Did you look at the quotations of the stock exchange ?

A. I looked at that at the bank — at the quoted sales and bids, and how much.

Q. During October, when you were making the examination, did you look at the quotations of the stock exchange ?

A. I looked at the quotations in the papers — the stock papers.

Q. Such as we have got here ; did you look at the official report of the New York stock exchange sales ?



A. No, sir.

Q. Do you know whether there was such a paper or not?

A. I am told there is.

Q. Do you know?

A. No, sir.

Q. You never saw it?

A. Except here ; I don't think I saw it anywhere else ; I may have done so.

Q. Didn't you see it at any of the banks?

A. I don't remember seeing it, but possibly I may have ; I have not looked at this even.

Q. You are familiar enough with operations in stock to know there is a board called the stock board ?

A. Yes, sir ; but I don't belong to it, and don't deal in stocks.

Q. Don't you know the fact that they have an official report every day, or twice a day ?

A. Yes, sir.

Q. You didn't look at that?

A. I know our paper has the report of the first board prices and second board prices.

Q. But you never went to look at the official report ?

A. I don't think I did.

Q. Why did you put down the banking house at \$100,000 ?

A. There were reasons ; one was that the books showed the banking-house cost \$79,000, and had been so reported to the department, and never questioned before that ; that it was bought before the war, when property was not worth half it was since that time, and I supposed if it cost \$79,000 in cheap times, it was worth \$100,000 then ; that was one reason, and another was that I made inquiries of property-owners along the Bowery, and I found no one that put it below that.

Q. Will you name anyone in the Bowery on whom you called ?

A. I think I went into the Citizens' Savings Bank, and saw a gentleman there.

Q. Do you know his name ?

A. Buntz.

Q. Any one else ?

A. I went into the Bullshead Bank, and they owned property there and I inquired of the officers what they regarded that property worth ; I went into the Third Avenue Savings Bank there at that time, and they valued it at from \$100,000 to \$125,000.

Q. Did you go to any of the men who deal in real estate, and auctioneers ?

A. I didn't go to any of the professional brokers ; I didn't know of any.

Q. To auctioneers ?

A. No, sir.

Q. Had you seen any sales in the newspapers?

A. No, sir ; I was told of sales right in that vicinity, and the prices of the assessor, and the price he put on one of the adjoining lots, which was away beyond the price I put on the banking-house, as I thought.

Q. Did you ever see this bank property ?

A. No, sir ; I did not.

Q. How did you get your estimate of that?

A. I got it from the appraisal made when the loan was made, and the foreclosure sale.

Q. What was the amount of the foreclosure sale?

A. I think the loan was \$20,000 ; they bid it in and got a deficiency, I think somewhere on the foreclosure, but the loan, as shown, was \$20,000 ; the property was estimated, as I remember it, at \$56,000, having cost that.

Q. You knew the bank had bought it in ?

A. I knew the bank had bought it in.

Q. And that it was not worth half its estimated value ?

A. No, sir ; I don't know that.

Q. Didn't you know it had been supposed to be worth \$50,000 or \$60,000 ?

A. I heard it so stated.

Q. And it was bought on a mortgage at \$20,000 ?

A. Yes, sir.

Q. And there was a deficiency against Mr. Goulard, the owner ?

A. As I understood, he got into trouble in some way, and they had to foreclose the mortgage.

Q. But you never took the trouble to inquire, from people in the neighborhood, what it was worth ?

A. I didn't inquire of any one in Brooklyn.

Q. Did you inquire of any one living in Brooklyn ?

A. I don't think I did.

Q. But you made it upon the statement with regard to the foreclosure?

A. I made it on the general facts ; the committee who examined the bank and I didn't differ very materially ; we did some, but not much.

Q. You were influenced by the committee's opinion?

A. That had some weight, of course.

Q. You made up your estimate on the bonds and mortgages ; did you know any thing of the value of the property covered by the bonds and mortgages?

A. No, sir.

Q. Did you know any thing about the standing of the bondsmen?

A. Nothing but what appeared in the report, and what was stated by both the trustees that made the examination, and the bank officers; there was no complaint made by them — sworn to by them.

Q. Did you put the officers, or any one connected with the bank, under oath?

A. I think not.

Q. Not one of the trustees?

A. I don't think I did; still I may have done so; I have done so in some cases.

Q. Would you not very likely put it in writing and take their affidavits?

A. I might and I might not; it would depend on circumstances; my recollection is that I didn't.

Q. This suspense account of \$10,000; you say you saw some letters from the receiver?

A. Yes, sir.

Q. [Handing papers to witness.] Are those the papers you saw?

A. I cannot say positively whether they are the identical letters or not?

Q. What is your impression?

A. I cannot say.

Q. These appear to be from the receiver or addressed to the receiver?

A. Yes, sir; I see some of them are prior to that time, and some about that time; I saw a communication or more; I cannot say positively about that, but I saw some evidence that satisfied me, or led me to believe that that claim had some value, but whether these are the letters he wrote I cannot say, never having seen them before or since.

Q. Will you say you have not?

A. No, sir; I will not; receiver or attorney, I am not sure which it was; I don't think I saw the letters addressed to the receiver by the bank, I am not positive about that.

Q. Did you see one of them?

A. I saw a letter.

Q. Will you say whether you saw one of these letters?

A. I cannot say that, or whether it is either.

Mr. McKEON — I offer this letter in evidence, dated October 7th, 1874. [Reading.]

“NEW YORK, *October 7th*, 1874.

“DEAR SIR — The claim of your bank against estate of Joslyn, depends upon the action in the hands of Mr. Burrill against Butterfield;

if in the end that should be successful, no doubt there would be a dividend of thirty per cent and more; I think I have stated this to you or the bank before; both Mr. Gamblos, the plaintiff in that suit, and his counsel, feel confident of final success.

Yours, truly,

“MOSES B. MACLAY, *Assignee*.

“A. T. CONKLIN, *Pres.*”

Q. That appears to be only thirty per cent?

A. So it reads.

Q. Where did you get your estimate of fifty per cent from?

A. I don't know; I know I got an impression from some document produced.

Q. Don't you know it was a lawsuit?

A. I knew it was a matter in dispute.

Q. Did you inquire how many years it had been standing?

A. No, sir.

Q. Never inquired about that

A. No, sir; I knew it had been reported once or twice to the department at a good deal higher figure than I put it.

Q. But you didn't inquire whether it was an old suit or a new suit?

A. I knew, in a general way.

Q. Do you know now?

A. I don't know any thing about it; I have not had much occasion to inquire since 1876, about that bank, until this time.

Q. This Goulard business; do you know where Mr. Goulard is?

A. I don't.

Q. Did you inquire where he was living?

A. It was stated to me that he was in Virginia, I think, and that the claim was perfectly good.

Q. Do you know whether any thing has been recovered on that?

A. I know Mr. Best stated he thought it could be.

Q. Do you know whether any thing has been recovered on that?

A. I do not.

Q. Did you inquire what Mr. Goulard's position was in Virginia whether there was a lawsuit against him there?

A. I don't think at that time there was any thing said about a lawsuit; they had this judgment.

Q. Didn't they have to sue on the New York judgment in Virginia?

A. That may be so.

Q. Don't you know that Mr. Goulard was assisting here?

A. No, sir.

Q. Did you make any inquiries into it?

A. I had no one to inquire of except the officers of the bank in regard to that matter.

Q. But you didn't make any inquiries?

A. Not beyond the fact that appeared there, that it was claimed to be a valid judgment.

By Mr. CHAPMAN:

Q. No claim of any suit pending?

A. It never was questioned, as far as I know.

By Mr. McKEON:

Q. In making your estimate of Alabama bonds, you said you looked over the market reports; did you find any quotation for them in October, 1874.

A. I think we found bonds at 30; that is my recollection, or thereabouts; I think they have been quoted since that very frequently; I guess they have been sold higher than that.

Q. You said that some one had told you that 70 was asked and 30 bid?

A. Yes, sir; it was so reported by the examiner.

Q. Did you know of any others who had bid thirty for them?

A. Of my own knowledge, no, sir.

Q. No one had ever told you they had, except the examiner?

A. That is all; he was so informed, and he acted on that information as a bank officer.

Q. You stated that political economists made values in this way what one would offer to sell for and the other offered to buy?

A. Yes, sir.

Q. To apply that doctrine of the political economist, can you tell me of any transaction in which the Alabamas have been fixed in that way?

A. I think they have since.

Q. At that time?

A. I say they had not agreed upon a price, and that is the reason we had to make a price; there was no quotable market value; there was that wide difference of opinion between holders and bidders.

Q. You don't know any one that offered 30?

A. Not of my own knowledge.

Q. And you don't know of any one that wanted to get 70?

A. No, sir; not of my own knowledge.

Q. These North Carolina bonds — how did you get at them, in your judgment?

A. Well, I was there in the bank itself at the time that valuation

was fixed, and I looked over some of the quotations as well as I was able to, and found the different valuations of different classes of bonds; and as Mr. Reid said, I left that a good deal to him.

Q. You didn't do any thing about it?

A. Yes, sir; I did do something about it; I was there and talked with him about it.

Q. The valuation of those things were left to Mr. Reid?

A. Not entirely.

Q. Chiefly?

A. Averaging, and getting the computation of the different classes of securities and their market price, which would make up this average, was left to him pretty much.

Q. Didn't you know there was a vast disparity between the different classes of bonds?

A. I knew there was a difference; the reports showed it.

Q. The result of all this was that you found the bank was in such a way that you thought \$50,000 would cover the deficiency?

A. In my judgment what I actually found, and reported them, and required them to make good, was the deficiency of \$25,000.

Q. Didn't you, in your letter, suggest to him that it would be better to make it \$50,000?

A. No, sir, I said in the judgment of some they might make it \$50,000, with, perhaps, just as good reason as we did \$25,000, in making those estimates of unmarketable securities.

Q. But the condition of the bank was such as to satisfy you at least of \$25,000?

A. Yes, sir, that was our conclusion.

Q. And you knew at the time that the securities of the southern States were exceedingly questionable?

A. I knew what every one who had occasion to investigate them knew.

Q. They were questionable?

A. They were bad securities.

Q. You then directed them to give you a bond, or to make up the deficiency?

A. Yes, sir.

Q. They didn't do any thing about that until December?

A. Yes, sir, they had meetings and had committees appointed, as they swore here, and talked it over.

Q. But you got no securities from them?

A. No, sir.

Q. Toward the close of December they came up and showed you a list of their assets?

A. Yes, sir; that is, they took my own figures and showed the change in the market.

Q. The change in the market reduced that \$25,000 to nothing?

A. Yes, sir; and left a surplus of \$7,000 or \$8000; they had sold the Brooklyn bonds at a large advance from the price we gave them.

Q. Do you know what the advance was?

A. Three per cent, I think.

Q. Would it make a difference of more than \$5,000 or \$6,000?

A. As I understand it now, it was \$12,000 or \$14,000 on that sale alone.

Q. And that is what made you rest secure?

A. That and the fact that they had realized that people had got to suffer, whatever it was, to make up this deficiency, and the fact that all securities of some class had appreciated and were appreciating all the time.

Q. Did you inquire any thing about those several hundred thousand dollars of southern securities?

A. Yes, sir, we took the figures.

Q. Had they appreciated?

A. Yes, sir, Tennessees had.

Q. Didn't you know those States had not paid their interest for a year before?

A. This was only from October to December.

Q. Didn't you know that they had failed for a year before, any one of them, to pay interest?

A. Yes, sir.

Q. Didn't you know that they were going down all the time, the mass of them?

A. No, sir; not at that time; I think at that time when we made the examination they got as low as any securities, as they would be likely to get.

By Mr. CHAPMAN:

Q. They had an actual market value quoted, whether the interest was paid or not?

A. Yes, sir.

By Mr. McKEON:

Q. Didn't you advise them to sell those securities?

A. Yes, sir.

Q. And they didn't do it?

A. They sold some.

Q. How many?

A. I cannot tell.

Q. Did you inquire how many ?

A. I don't know that I did at that time.

Q. Do you know which of the bonds were sold ?

A. I do not.

Q. Do you know what price they brought ?

A. I suppose I did at the time ; I don't now remember.

Q. By what authority was the examination made of your two examiners in March, 1874 ?

A. There was a law of 1871, requiring an examination to be made ; that was the first law passed ; that law requires an examination to be made at least once in two years of all savings banks in the State.

Q. Did you give any special order for the examination of this bank in 1874 ?

A. I gave a regular commission.

Q. That is a general commission ?

A. No, sir ; a commission is given every time an examiner goes into a bank on a receiver's examination.

Q. You gave him that regular commission ?

A. Yes, sir.

Q. That is your usual authority ?

A. Yes, sir.

Q. [Handing book to witness.] Will you look at page 296 of your report and tell me what the surplus of that bank was reported to be at that time ?

A. \$82,331.18.

Q. Did you make any inquiries as to the value of the assets at that time ?

A. No, sir.

Q. You took the report as conclusive ?

A. Yes, sir.

Q. In October following, you made an examination yourself ?

A. Yes, sir.

Q. And you found a deficiency ?

A. I did.

Q. Of how much ?

A. \$24,900.

Q. Nearly \$25,000 ?

A. Yes, sir.

Q. Did you think that was the highest amount that you could put upon it ?

A. The highest amount of the deficiency ?

Q. Yes.

A. That is what I did put upon it ; I might have put some thing else on it, but that was my judgment.



Q. You seem to think, in your letter, that \$50,000 might be put upon it by other folks?

A. I seem to think, if you had been superintendent, you might have put it \$50,000.

Q. The only reason I use the \$50,000 is because it is in your letter.

A. That letter I wrote.

Q. If this \$50,000 is added to the alleged surplus, would it not change the whole of the assets to a very large amount?

A. If it was added to the \$80,000?

Q. Yes.

A. Very likely it would.

Q. It would make about \$130,000?

A. It might.

Q. Did any such change take place?

A. I cannot say; I can state one little circumstance that might throw some light on it; one of the largest banks in the city shows a change on the "governments" alone of between \$700,000 and \$800,000.

Q. Depreciation?

A. Yes, sir.

Q. On United State bonds alone?

A. Yes, sir; between \$700,000 and \$800,000.

By Mr. CHAPMAN:

Q. Did this depreciation of government securities of this bank, of which you speak, weaken your confidence in the bank at all?

A. Not at all.

By Mr. McKEON:

Q. Look at your report, page 148, and tell me what the item is of excess assets over liabilities, in the report of this bank?

A. \$67,240.08.

Q. Didn't you find, only a few months before, a deficiency of \$25,000?

A. That is what I reported.

Q. How did they get that \$25,000 up to \$67,000; how did they get the deficiency of \$25,000 changed into a surplus of \$67,000?

A. I cannot tell you except on the principle that these municipal bonds advanced rapidly.

Q. Do you know how it was at all?

A. No, I do not.

Q. In making up that surplus of \$67,000, did you call upon the trustees or any of the officers of the bank to tell you what values they put upon their assets at that time?

A. No, sir ; I am not aware that we had any correspondence with them.

Q. You didn't do it ?

A. I took the report as they made it.

Q. But you did not call upon them to explain how they had changed the \$25,000 deficiency to a surplus of \$67,000 ?

A. No, I knew the fact that many of these securities had largely appreciated to my knowledge ; that I knew ; I could easily see how it might be.

Q. When you put this bank at \$100,000, did you look at the books of the banking-house to see what it cost them ?

A. I am not positive about that.

Q. You never looked at it to see ?

A. I do not say I did not ; I looked at more or less of the books of the bank ; whether I looked at that particular item or not I don't know.

Q. You found a deficiency, and you found it made up, and you found them with an income falling off all those three years ?

A. Yes, sir.

Q. Did you not observe that they were making a dividend of three per cent semi-annually ?

A. Yes, sir.

Q. Did you inquire of them how they were making it ; how they were declaring it ?

A. I did not inquire ; I knew, as I supposed ; I know that they reported a surplus all the while, and the law permits them to make a dividend as long as they have a surplus appearing to their credit ; the report showed they had a deficiency of income.

Q. You took the report and did not inquire ?

A. They showed the facts ; I didn't need to inquire ; it was patent on its face ; they had a deficiency of income, and the examiner reported it so ; the question has occurred in many banks whether they had a right to give a dividend unless they had earned it during the six months ; I had a good deal to do with the drafting and passage of this general law, and I knew the history of it ; in the original that was introduced, it was a dividend on the earnings appearing for the period of six months, that they could only make a dividend ; the argument before the legislature was, that as long as they had a surplus to draw from, they should be permitted to pay the dividends with it, and it should be made up when it could, and it finally passed in that way, and that construction has been put upon it by a good lawyer, that if they had a surplus on their books, although they have not earned as much as the dividend amounts to during the dividend period, they may pay their dividend.

Q. You were governed by their statements to you in a great measure, were you not.

A. Not in this examination.

Q. You found the bank had not an income ?

A. Yes, sir, and it was because these southern bonds defaulted in their interest.

Q. Standing still ?

A. Yes, sir.

Q. There was no improvement there ?

A. No, sir ; there was in other respects, of course.

Q. Why had you not read the thirty-third section of the act ?

A. Of 1875 ?

Q. Yes ?

A. I have read every section of it.

By Mr. CHAPMAN :

Q. Was that in force at the time the report of January 1st, that they are talking about, was made ?

A. No ; that was not in force ; it was in force when they made the two last dividends.

Q. This was passed May 17, 1875 ; then their July and January dividend was made under that law.

A. Yes ; but not reported until the January statement came in.

By Mr. McKEON :

Q. Do you say that the superintendent takes no notice except it comes through these reports ?

A. I did not say so.

Q. Did you know they made a dividend in July, 1875 ?

A. No, sir.

Q. Did you know they made a dividend in January, 1876 ?

A. Except as appears by the reports.

Q. Did you know it ?

A. I say, except as appears by the reports, I had no personal knowledge of it.

Q. Did you make inquiries ?

A. I don't think I did ; I didn't spend all my time during that year in connection with this one bank ; I am not supposed to be in the bank all the while, and be familiar with every transaction.

Q. Did you call the attention of any of the officers of the bank to the 33rd section of the act of 1875, which provides that " whenever they make a dividend, when any interest or dividend shall be declared, it shall be out of the excess of the interest or profits earned and ap-

pearing to the credit of the corporation ;” did you call their attention to that ?

A. I did in one way ; I furnished them a copy of this law.

Q. Did you come down and see whether it was executed ?

A. No, sir ; I took the pains to have it printed and sent to all the banks, so they would become familiar with the law.

By Mr. CHAPMAN :

Q. The counsel asked you at some little length, in regard to the meeting between yourself and the governor, prior to these charges being sent in to the senate ; I will ask you whether prior to your hearing any thing about these charges from Gov. Robinson, whether Mr. Beach’s name had been sent in as a candidate for superintendent in your place, prior to your hearing any thing about these charges ?

A. It had.

Q. And the senate had rejected the nomination ?

A. Yes, sir.

Q. How long after that rejection, before these charges were brought forward and presented to the senate ?

A. Not very long.

By Mr. McKEON :

Q. Was not Beach’s name sent in after all these statements appeared in the newspapers ?

A. They appeared last fall ; I am not supposed to be responsible for the newspapers.

By Mr. CHAPMAN :

Q. They appeared in the papers along in October or November, last fall ?

A. I think about the 13th of November.

Q. Your attention had not been called to them by the executive of the State, from that time until after the successor was sent in to the senate, which the senate refused to confirm ?

A. In no manner was my attention called to it.

By Mr. McKEON :

Q. Did you see an opinion of mine, that you could not be removed ?

A. I did ; I thought at the time it was a very good law.

By Mr. CHAPMAN :

Q. That was prior to the meeting of the legislature ?

A. Yes, sir ; that was the time these charges came out.

Q. That was an opinion that Gov. Tilden could not remove without the legislature was in session?

A. No, he could not remove without consent of the senate; I recollect the opinion was that the governor, of himself, had no power to remove.

Q. Mr. McKeon has called your attention to the fact of there being a deficiency of income in March, 1874, of some \$14,000; that same report made by Mr. Reid, which showed that deficiency, showed that the bank had a surplus of \$82,000, did it not?

A. Yes, sir.

Q. Is it an uncommon thing to notice a deficiency in the income in the returns of several banks?

A. It is quite common, and has been, for the last two or three years.

Q. This shrinkage in value almost necessarily tends to bring that about, does it not?

A. It depends a good deal on the class of securities the bank hold.

Q. The shrinkage tends to bring that about?

A. Yes, sir; it very often occurs out of failure of towns to pay the interest on their bonds, or loans on collateral.

Q. I call your attention to this official stock exchange; the Tennessees you quoted in October at 58½, did you not?

A. I think so; the figures show what it is.

Q. On the 19th of December you find Tennessees quoted at the lowest is 59, is it not?

A. Yes, sir.

Q. And the highest is 80?

A. Yes, sir.

Q. Some are at 60?

A. Yes, sir.

Q. And some at 79?

A. Yes, sir.

Q. Those are the prices of the different kind of Tennessee securities which were bid for?

A. Yes, sir.

Q. Will you state the extremes of the prices asked?

A. The highest price bid was 62, and the lowest 60¼.

Q. You mean asked?

A. I mean asked.

Q. Whether these Tennessees had appreciated from the October previous; they had appreciated nearly three per cent, had they not?

A. It seems so, by that report.

Q. I will call your attention to the South Carolinas; they were bringing, in October, as appears by this register, 17 up to 24?

A. Yes, sir.

Q. And in December following South Carolinas were bringing from 22½ up to 30 ?

A. Yes, sir.

Q. So there was a very material appreciation in these ?

A. Yes, sir.

By Senator ST. JOHN :

Q. Are there not various kinds of South Carolinas ?

A. I take the two extremes.

By Mr. CHAPMAN :

Q. Aside from those which you have alluded to, do you find non-fundable bonds quoted at 6¾ in October ?

A. Yes, sir.

Q. And did you find these same non-fundable bonds at 7 bid, and 7¼ asked in November ?

A. Yes, sir.

Q. So that on all those bonds there was a decided increase in price during those dates ?

A. Yes, sir.

By Senator ST. JOHN :

Q. I want to know how many of those non-fundable bonds were held by this bank at this time ?

A. I don't know that they held any.

Q. How many of the regular bonds that held the highest price, 17 or over ?

A. I cannot tell you that.

Q. What I want to ascertain is, the value of those South Carolina bonds at this time ; what is your date ?

A. October 7.

Q. Non-fundable bonds are quoted there ?

A. Yes, sir.

Q. What was the value of them ?

A. Six and three-quarters.

Q. The others were how much ?

A. From 17 up to 24.

Q. I am not able to ascertain from you how many non-fundable bonds this bank held ?

A. No, sir ; I don't recollect now.

By Mr. CHAPMAN :

Q. It appears from the stock register that there was an increase in the value of all those South Carolina bonds ?

A. Yes, sir.

By Senator ST. JOHN :

Q. Increased in value afterward ?

A. Yes, sir ; appreciated in value ; the 6 $\frac{3}{4}$  to 7, and the others from 22 $\frac{1}{2}$  to 30.

By Mr. CHAPMAN :

Q. Of the North Carolina securities on October 7th, the lowest quotations are 6 and the highest are 42, were they not ?

A. Yes, sir.

Q. In November, the lowest quotations bid are 12, and the highest quotations are 50, are they not ?

A. Yes, sir.

Q. In December it appears that the lowest bid was 12 and the highest 50 ?

A. Yes, sir.

Q. You can find no quotations of these Alabama bonds in October ?

A. There don't seem to be any.

Q. Turn to December, you find no quotations of Alabamas in December ?

A. There are none.

By Senator ST. JOHN :

Q. I want to ask you in relation to these North Carolina bonds ; they range in October from 42 to 6, and in December from 50 to 12 ; I want to know how much of each kind of those bonds in this \$141,000 which this bank held, how much of each of these classes were held ?

A. I cannot tell you.

By Mr. CHAPMAN :

Q. So that in each of these southern securities, from October down to December 19, there had been an appreciation, instead of a depreciation ?

A. Yes, sir ; it seems so by their report.

Q. I understand you to say that at that time you knew in regard to those different kind of bonds ?

A. Yes, sir.

Q. But what you mean to say to Mr. St. John is, that you cannot remember those now ?

A. I cannot remember the kinds ; I knew the bonds, and looked at them all ; I had them in my hands.

Q. In regard to your bankruptcy claim, I want to call your attention to it, as to whether the valuation that had been returned to the department as \$40,000 was not the original claim against Joslyn over

\$100,000, so that the \$40,000 which had been returned to the department was not the amount of the face of the claim ?

A. No, not at all.

Q. Something like 30 per cent or about 40 per cent ?

A. As I fixed it, it amounted to ten per cent.

Q. The returns which was made to the department as \$40,000 was about 30 or 40 per cent of the original claim ?

A. Yes, as I understand it.

Q. When you came to make the examination, instead of leaving it at 30 or 40 per cent you put it down at something like 8 or 10 on the dollar ?

A. Yes, sir.

Q. Mr. McKeon has asked you a little in regard to your examining this bank thoroughly ; I will ask you whether it is possible, with the force at your command, to know all the time the condition of these four hundred and odd banks and banking institutions ?

A. No, it is not, and it is not possible for the officers in a bank themselves to know that, I don't believe ; they may think they do ; they may have a clerk that steals at night, and they may not find it out for a month.

*William J. Best, recalled.*

By Senator ST. JOHN :

Q. You are the receiver ?

A. Yes, sir.

Q. You took possession of this bank with the North Carolina and South Carolina securities ?

A. Yes, sir.

Q. What amount of these South Carolina securities were non-fundable at the time you took possession of the bank ?

A. 141,000.

Q. \$141,000 were non-fundable ?

A. Yes, sir.

Q. The balance was quoted at about  $6\frac{3}{4}$  to 7 ?

A. I don't know what they were quoted at.

Q. There was \$141,000 ; that would leave \$14,000 of the other kind of securities ?

A. Yes, sir.

Q. Of the North Carolina here, appears to be the first, are \$3,000 issued October 1st, 1857, which was stated to be worth  $20\frac{1}{4}$  ?

A. Yes, sir.

Q. Was that a fair quotation at that time ?

A. That is the quotation given here.



Q. The next is \$1,000 of a different issue, quoted at the same time ; now you come to the \$1,000 issue on the act of January 1st, 1849, which are quoted at 42 ; those were the highest priced bonds of North Carolina, were they not ?

A. Yes, sir.

Q. These were quoted at 42 at that time ; afterward they advanced, but there was only \$1,000 of them to advance ; the next item is \$13,-100 of them, that are quoted at 14 ?

A. Yes, sir.

Q. They are described as funding matured interest on public debt of 1866 ; the next is \$1,000 ; he has grouped them together here as [referring to printed pamphlet,] \$1,000, \$11,000, \$11,000, \$15,000, making \$38,000 ?

A. Yes, sir ; but there is \$54,000 first.

Q. That is all you reported, \$38,000 ?

A. Yes, sir.

Q. Those are reported as being worth 12 ?

A. Yes, sir ; those are new bonds.

Q. Those remained the same quotation at 12, in December ?

A. Yes, sir.

Q. The \$54,000 that was quoted at 14 ?

A. Yes, sir.

Q. Have you ever made an average at those prices at what those bonds were worth ?

A. No, except when I took possession, then I made an average ; that was in 1876.

Q. Can you tell me what those bonds were worth, taking them at an average ?

A. It is a matter of calculation ; I made my valuation in 1876 — they were then out of sight.

Q. What do you mean by that ?

A. When I made my valuation in 1876, they were very low down.

Q. They were still cheaper ?

A. Yes, sir ; they have come up since then somewhat.

Q. About the Alabama bonds — you have nothing more to say about them — you say there was no market ?

A. No market, and had been none for three years nearly ; from the latter part of 1873, they have not been quoted ; they were defaulted in July, 1873 ; then there were no quotations.

By Senator COLEMAN :

Q. They paid the last interest in July, didn't they ?

A. No, sir ; January, 1873 ; they owed interest on the 1st of July,

which was not paid; they paid the January coupon, but did not pay the July; no, sir; it was paid to the 1st of July, that is right; they defaulted on the 1st of January, 1874, and then the bonds ceased to be quoted.

By Senator ST. JOHN:

Q. Why didn't you sell those southern securities at the time they were at the highest market price, since they came into your hands?

A. For the reason that the heaviest holders of the bonds had waited on me and requested me to go to North Carolina and Alabama, and the other southern States, and if possible, bring about a compromise with those States; I spent the greater part of last winter down there, and it was through my efforts that the bonds appreciated in value.

Q. It would have been better for the depositors if you had sold them for the highest price they would bring?

A. I don't think it would.

Q. Then it would have been better for the depositors for you to sell them at less than the highest price?

A. No, sir; I would not say that.

Q. Would it not be better for the depositors, for you to sell them for the highest price they could have been sold for?

A. It would have been better for the depositors if I closed out now, to have done so.

Q. That is not a very direct answer to the question; all there is about it is this: you exercised the best judgment you had in the interest of the depositors?

A. Yes, sir.

Q. The municipal bonds, if you had held on to them, you could have sold them at a higher price than what you did sell them for?

A. No, sir; I could not have sold them for a dollar more.

Q. Haven't those securities been any higher?

A. They have been sold by the men who bought them of me, but there has been no sales made to the dealers at the price I got.

Q. Do you mean to say that those municipal bonds which came into your hands have not been sold any higher than what you sold them for?

A. I say they have not been sold to the dealers any higher.

Q. It don't make any difference to whom?

A. I don't know what they have been sold at.

Q. Whether if you had in fact—not whether you exercised good or bad judgment, because I assume you acted correctly according to the lights that you had—if you had in fact held on to those bonds you could have sold them for a higher price than you did?

A. I could not hold on to them, because I was ordered by the court to sell them.

Q. Possibly the court may have made a mistake ?

A. The court ordered me to sell the bonds.

Q. In fact have not those bonds been higher since you sold them, than you sold them at ?

A. I don't know ; I have not bought and sold a dollar of the bonds ; I would like to make an explanation about the southern bonds ; I put myself in communication with some of the leading men in the different States, with a view to make those southern bonds of more value, and in November I went to Alabama and remained there a considerable time, and received assurances that led me to believe that something may yet come out of those securities, and for that reason I did not sell them for the small trifle they would bring ; the same in regard to the North Carolinas ; while I was there negotiating, these bonds advanced ; since I returned, without bringing about a settlement, they declined somewhat, but I think the bonds will be worth more money ; when the legislature meets again, this debt will be adjusted and, necessarily, upon a basis much more favorably to the holders of the bonds.

Q. Did you go to New Orleans ?

A. No, sir ; I had no Louisiana bonds.

Q. You didn't go to New Orleans ?

A. I went there, yes, sir.

Q. Did you write some letters to the papers as to the political situation ?

A. No, sir.

Q. Nothing was published over your name or purported to come from you ?

A. No, sir ; not a word, but I was interviewed when I came back here.

Investigation in regard to this case is now closed.

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ALBANY, N. Y., *May*, 8, 1877.

The committee met at Congress Hall, pursuant to the call of the chair, at 11 A. M.

Present — Senators COLEMAN (chairman), ST. JOHN and WELLMAN,

The chairman read the additional charges preferred against Mr. Ellis as bank superintendent, contained in the governor's communication to the senate of April, 23, 1877.

#### THE BOND STREET SAVINGS BANK.

In regard to charge No. 1, the following report of the examiners [pages 269 and 270, reports of 1876], is read in evidence :

# BOND STREET SAVINGS BANK, NEW YORK CITY.

[Examined March 25, 1875, and subsequent days, by George W. Reid and William F. Aldrich.]

ASSETS.	Rate of interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Bonds and mortgages .....	7	.....	.....	.....	\$570,346 00
Call loans, chiefly on U. S. and county bonds ..	7	.....	.....	.....	36,650 00
United States coupons, 1881 .....	6 gold.	\$150,000 00	121	\$181,500 00	
United States reg., currency .....	6	203,000 00	119½	242,077 50	
New York city bonds ..	7	38,000 00	100	38,000 00	
Brooklyn city bonds .....	7	100,000 00	106	106,000 00	
Richmond county .....	7	1,000 00	100	1,000 00	
Westchester county .....	7	86,500 00	100	86,500 00	
East Chester town .....	7	10,500 00	100	10,500 00	
Kingston town .....	7	50,000 00	98	49,000 00	
Rosendale town .....	7	50,000 00	98	49,000 00	
Shawangunk town .....	7	19,500 00	98	19,110 00	
Thompson town, interest suspended .....	7	30,000 00	70	\$21,000 00	782,687 50
Montclair town, N. J., interest suspended .....	7	40,000 00	70	28,000 00	
Woodside, N. J., interest suspended .....	7	18,000 00	70	12,600 00	
Kearney, N. J., interest suspended .....	7	5,000 00	70	3,500 00	65,100 00

Banking-house, old, worth.....	.....	.....	.....	.....	.....	\$65,000 00
Banking-house, new, cost.....	.....	.....	.....	.....	.....	220,226 86
Cash in vault.....	.....	.....	.....	.....	.....	\$9,525 14
Cash in National Park Bank.....	3	.....	.....	.....	.....	51,649 15
Cash in Tradesmen's National Bank.....	4	.....	.....	.....	.....	91,349 14
Cash in Germania Bank.....	4	.....	.....	.....	.....	15,489 44
Rent accrued.....	.....	.....	.....	.....	.....	168,012 87
Interest accrued.....	.....	.....	.....	.....	.....	744 00
						24,460 00
						<u>\$1,933,227 23</u>
Due depositors.....	.....	.....	.....	.....	.....	\$1,764,121 18
Interest accrued.....	.....	.....	.....	.....	.....	23,375 00
						<u>1,787,496 18</u>
Surplus.....	.....	.....	.....	.....	.....	<u>\$145,731 05</u>

## BOND STREET SAVINGS BANK — (Continued).

## Annual income and charges thereon.

INVESTMENTS, ETC.	Rate of Interest.	Amount at par.	Revenue.	Totals.
<i>Income.</i>				
Bonds and mortgages.....	7	\$570,346 00	\$39,924 22	
Call loans.....	7	36,650 00	2,565 50	
United States, gold.....	6	150,000 00	9,000 00	
Premium on gold interest.....	10	.....	900 00	
United States, currency.....	6	203,000 00	12,180 00	
City and other bonds.....	7	355,500 00	24,885 00	
Cash in bank.....	3	52,000 00	1,560 00	
Cash in bank.....	4	107,000 00	4,280 00	
Rents.....	.....	.....	6,900 00	
				\$102,194 72
<i>Charges.</i>				
Interest due depositors.....	.....	.....	\$100,000 00	
Salaries.....	.....	.....	14,404 00	
Internal Revenue tax.....	.....	.....	290 00	

Other taxes .....	.....	.....	3,000 00
All other charges .....	.....	.....	5,000 00
			<hr/>
			\$122,694 00
Deficiency of income .....	.....	.....	<hr/>
			\$20,499 28

In the report of the examination of this bank two years ago, reference was made to a loan of \$50,000 to the New York and Oswego Midland railroad on \$63,000 of New Jersey town bonds. After the failure of the company, these bonds were bid in by the bank at fifty-five bids for fifty-four having been made by outside parties. These bonds we have estimated as worth seventy, since holders are now asking eighty-five to ninety for them, the arrangement for the payment of the interest on them being nearly completed. Three semi-annual coupons are now over-due. The bank last year moved into its new banking-house, but the old one is not yet sold. By reason of the small amount of rent received from both these houses, and the suspension of interest on town bonds, there is a deficiency in income of over \$20,000. The officers of the bank now appear to be convinced that the only safe way is to make the loans and investments as authorized by law.

It is admitted that on September 11, 1876, the superintendent made a recommendation to the attorney-general to put the Bond Street Savings Bank in the hands of a receiver; that papers were served by the attorney-general September 20, 1876, and the bank was put into the hands of a receiver soon after.

Senator ST. JOHN asks to put in evidence all reports made by special examiners and all reports made by officers of the bank to the superintendent during his term of office. The committee decide that no reports other than the report of the examiners of March 25, 1875, are admissible as bearing upon the specific charge contained in the governor's communication.

*De Witt C. Ellis*, being sworn in his own behalf, testifies:

By Mr. CHAPMAN:

Q. You are superintendent of the banking department?

A. Yes, sir.

Q. And have been since February, 1873?

A. Yes, sir.

Q. You have read this charge which is under investigation by this committee in regard to the Bond Street Savings Bank, have you?

A. Yes, sir.

Q. And you have also read this report of the special examiners of March 25, 1875, which has been introduced in evidence?

A. Yes, sir.

Q. With the note accompanying the same?

A. Yes, sir.

Q. I see there is an allusion by the examiners in this note to some of the investments and loans as though they were not authorized by law; was that the fact at the time, that there were any such investments held by the bank — investments not authorized by law?

A. I think not, sir; I think every one of them was authorized by law, by their charter.

Q. The Bond Street Savings Bank was doing business under a special charter, was it not?

A. Yes, sir.

Q. Not under general laws?

A. No, sir.

Q. It was originally incorporated as the Atlantic?

A. The Atlantic Savings Bank; that was the original title.

Q. That is, by chapter 280 of the laws of 1860?

A. Yes, sir.

Q. And the name was subsequently changed from that to the Bond Street Savings Bank?

A. Yes, sir.



By Senator WELLMAN :

Q. What year was the act passed which changed the name ?

A. I don't remember when it was changed ; it was about the time they moved to their new building, corner of Bond street and Third avenue ; I don't remember the year ; it was changed by an act of the legislature.

By Senator ST. JOHN :

Q. You say all their securities were such as you regarded they were entitled to take ?

A. Yes, sir ; as I understand it ; this was originally a loan, not an investment ; a temporary loan, as reported, in this annual report.

By Mr. CHAPMAN :

Q. The securities to which you suppose reference to have been made by your examiners are the New Jersey town bonds in aid of the Midland ?

A. It was the loan that he reports there as having been made on those bonds.

Q. On the town bonds in aid of the Midland railroad ?

A. Yes, sir.

Q. By the general laws in force at that time, your idea is that they would not have been authorized to have loaned upon them ?

A. I don't know that there was any general law at that time in relation to these lands, except that one in regard to Brooklyn and New York ; each bank was working under its own charter, and the provisions of its own charter until 1875.

Q. I show you section six of chapter 280, of the laws of 1860, which is the charter of this Bond Street Savings Bank, and ask you if that section contains the provision which authorized them to loan on those bonds ?

A. Yes, sir ; that is the provision.

Q. I will read a portion of the section : " It shall be the duty of the trustees of said corporation to invest as soon as practicable, in public stocks or public securities, or in bonds and mortgages, as provided for in this act, all sums received by them beyond an available fund of not exceeding one-third of the total amount of deposits with said institution, at the discretion of said trustees, which they may keep to meet current payments of said corporation, and which may be then kept on deposit or interest or otherwise in such available form as the trustees may direct." Other savings banks had special charters with a corresponding provision in them, had they not ?

A. A very large number in the State had that or a singular provis-

ion ; I might say that it turned out, and I guess was always regarded by the department as one of the worst provisions that was ever put into the savings bank charter — that very provision ; but it was the law.

Q. The department had so interpreted it ?

A. Yes, and it had been so interpreted by the best counsel of the State ; by the counsel for this very bank.

Q. And these investments are legal ?

A. That they had a right under that clause to make the loan.

Q. Instead of an investment it is a loan ?

A. It is a loan, as reported there ; the department had protested, in looking over the reports, against that clause, repeatedly, but the legislature had not seen fit to change it, and did see fit to create banks with such provisions.

Q. Was that provision left in the general savings bank law that was passed in 1875 ?

A. No, sir ; that law provides what they may loan on, and nothing else.

Q. Under the law of 1875, they would not have power to make that loan ?

A. No, sir.

Q. The law of 1875 has a provision in relation to investments of loans that had been previously been made ?

A. Yes, sir ; a special provision put in permitting banks to hold such securities as they had then invested in up to that time — which is not permitted by the act of 1875 — until such time as they could dispose of them to the best interests of the depositors.

By Senator ST. JOHN :

Q. What section is that ?

A. I don't remember the section ; I remember the discussion in the committee over it, and the way it was finally disposed of.

By Mr. CHAPMAN :

Q. One of the items of charge is that by this report of March 25, 1875, there was a deficiency of \$20,499.28 in annual income ; did the same report show a surplus held by the bank of \$145,731.05 ?

A. It did.

Q. Now, I will ask you whether on that report, showing that surplus, you could have put the bank into the hands of a receiver ?

A. No, sir ; I could not ; it was a large surplus for a bank of this size, and I had no standing in court to close it up.

Q. If the attorney-general had applied to the court upon this report he would have had no standing in court ?

A. I don't think he could have stood a minute.

Q. The proceedings would have been dismissed on his own papers ?

A. Yes, sir, that is my judgment; of course, that is based on the experience of former superintendents.

Q. You have reports in your department of action attempted to be taken by former superintendents, where the bank beat the party on the ground of showing that it had a surplus ?

A. You will find on Mr. Howell's report, in the case of the Third Avenue Savings Bank, they made an attempt to close it up, and the court beat the plaintiff; all I know of it is in the record of itself.

Q. Now I will ask you to explain in regard to this element of the deficiency of income ?

A. That grew out of the suspension, to a large extent, of the interest on those town bonds, and, as the examiner says, there was a failure to rent some real estate.

Q. Did the fact of there being a deficiency of income interfere, under the law, with their right to declare a dividend to depositors ?

A. No, sir; not if they had the surplus.

By Senator ST. JOHN :

Q. Do you mean by that that a bank of this kind, since the law of 1875, could go on and declare a dividend when they had not earned it ?

A. I mean just this, that the law of 1875 (I was familiar with the discussion of that very question) was framed so that a bank could declare a dividend if it had that showing on its books, whether it had earned it that year or any other year; and that provision was put into the general law expressly to cover that class of cases; they might in one dividend period of six months not make as much as that dividend, but if they had previously earned it, and it appeared on their books, according to the language of the act they could declare the dividend; of course, when they had used up their surplus they could not do it.

By Mr. CHAPMAN :

Q. That very question was under discussion in the committee ?

A. It was thoroughly discussed in the committee, and they finally agreed upon that form as a matter of justice to depositors; a bank might be robbed during one six months of its dividend, and have a large surplus on its books and on hand, too; and the ground taken was that the bank should be permitted to pay that dividend to the depositors just the same; the original draft of the bill had a provision in that they should not pay any dividend not earned during that dividend period; that was stricken out and modified as it now stands.

By Senator ST. JOHN :

Q. Then your idea is, if a bank, in making out their estimate, shows a surplus by inventorying its real estate and its stocks far above their value, that that would entitle them to declare a dividend?

A. No, I don't say that.

Q. I want to know what you mean?

A. I say if they have a surplus.

Q. Is it a fictitious surplus, a surplus that is made up by putting a high price, and a price above the market value, on these, or is it a natural, fair surplus?

A. I assume that the officers and examiners when they make the examination as to values estimate fairly; if they do not, I have no means of understanding any thing about a bank; we take the report in this case as we do in all other cases; no complaint had ever been made about that bank; no one ever questioned its integrity up to that time, nor since, to me.

By Mr. CHAPMAN :

Q. Now, in regard to the appointment of a receiver, your recollection is that the matter was presented to the attorney-general September 11, 1876?

A. Yes, sir; the report shows it — my recommendation.

Q. I will ask you whether the bank, at the time you referred the matter to the attorney-general, actually had a surplus?

A. It actually had a surplus, taking its real estate at cost, of about \$130,000 at the time we closed it up.

By Senator ST. JOHN :

Q. When you put it in the hands of the attorney-general?

A. Yes, sir,

By Mr. CHAPMAN :

Q. By the act of 1875, the value of the real estate must be returned at cost, must it not?

A. Not above cost.

Q. The point that struck Senator St. John's mind probably was, if there was this surplus, the attorney-general, according to what you have stated, would not have had power to put it into the hands of a receiver; explain that?

A. This bank was closed up after consultation with the trustees and myself, as a matter of expediency in the interest of the depositors; we consulted together, looked the matter all over, and found that the deposits were being gradually withdrawn; we had closed up half a

dozen banks, more or less, right along on that avenue, and there was a general distrust in that particular locality, more so than anywhere else ; and the result was these deposits kept being withdrawn gradually ; no run on the bank, that I know of, but they were losing their deposits ; and we got together and held a council and agreed between us that it was in the interests of the depositor to stop taking deposits and wind up the bank ; they would have done it themselves, voluntarily, if they could have converted their real estate fast enough to meet the depositors ; after that consultation, I made the recommendation, and of course there was no opposition on the part of the bank.

Q. And hence you could have closed it up even if there was a surplus ?

A. It was deemed advisable ; I regarded the officers as far as any action I could see, or had seen, as honest men, that wanted to do the best thing they could for the depositors ; in fact they showed a great deal of anxiety to protect the depositors, and they thought they could do it in that way.

Q. Was there any thing at any time brought to your attention that led you to be suspicious of the trustees or of their actions ?

A. No, sir.

Q. Or of the bank officers ?

A. No, sir ; that I now recollect of.

Q. With the fall in real estate it was impossible for them to realize upon their real estate so as to meet their deposits ?

A. Yes, sir.

Q. In other words the hard times compelled them to close ?

A. That is what it was, exactly ; it was that and nothing else, that I know of.

Q. You say that you had closed up some few saving banks along in that locality ?

A. Yes, sir ; half a dozen.

Q. And the depositors being alarmed, commenced gradually withdrawing ?

A. Yes, sir ; that was the fact.

Q. Is there any thing in the law that requires you to report to the attorney-general in case you at any time discover a deficiency in income ?

A. Not that I ever heard of.

Q. Certainly not, if the bank has a surplus as large in proportion to its assets as this ?

A. No, I don't think the law mentions the subject of income at all, and as matter of fact the income of the bank varies from one year to another ; it is sometimes larger and sometimes smaller, and that is an estimated income ; it is not a natural one.

Q. Estimated for the six months in which this examination was made?

A. For the year; the examiner makes an estimate of the expenses of the bank and of the income of the bank, and strikes a balance.

Q. Then, in fact, at the end of the year instead of there having been a deficiency of income, there may have been no deficiency at all?

A. That might be possible, but the examiner makes his estimate at the time he is there.

By Senator ST. JOHN :

Q. How could it be possible that the income would be made up?

A. We will suppose that he made his examination in the early part of the year.

Q. I want to take it just as it is: how many thousand dollars of bonds were held by this bank that were non-paying bonds?

A. You can tell just as well as I, by looking at that report.

Q. I am not so well versed as to non-paying bonds as you are; they report here \$65,000 of bonds, from which they got no interest?

A. These bonds are good now — as good as “governments”— interest and all.

Q. They are town of Thompson bonds here — \$30,000; do you think they are as good as “governments”?

A. They say so; they had a litigation, and they have beaten the town; I don't say they are worth as much as “governments,” but they are as valid.

By Mr. CHAPMAN :

Q. It is the fact, is it not, that in the case of many town bonds they may be very low at one time and subsequently appreciate in value to the full face?

A. Yes, sir; as a matter of fact, that is so.

Q. Their value may depend entirely upon the decision of the courts as to their validity or invalidity?

A. Yes, sir; where the town repudiates them, or they are in dispute, of course it depreciates the bonds; when the question is finally settled for or against the town, it settles the value.

Q. Are there not many cases of bonds or stocks on which the interest had been passed one or more times on which subsequently the interest was paid in full?

A. Yes, sir.

By Senator WELLMAN :

Q. In regard to these four classes of bonds designated in the

examiner's report as "interest suspended," and estimated at seventy, what do you understand about the suspension of interest having been removed — the payment of interest having been resumed ?

A. Now ?

Q. Yes ?

A. I am informed — I don't know of my own knowledge — that in the litigation they have succeeded, and that the bonds are declared valid, covering principal and all suspended interest.

By Mr. CHAPMAN :

Q. That is your understanding of it ?

A. I have no doubt about it.

By Senator ST. JOHN :

Q. Did you say that they had resumed interest on them ?

A. I did not say that they had paid ; I say that I was informed by the receiver that they had succeeded in the case and the bonds declared valid, principal and interest.

Q. Which ones are those ?

A. These town bonds.

[Mr. Mack was here asked if he desired to ask any questions of the witness, and he replied that he did not, as all the reports touching the bank have not been put in evidence.]

By Senator ST. JOHN :

Q. Have you ever had any special examinations of this bank that are not reported ; have you ever appointed an examiner of this bank the report of which does not appear here ?

A. I think not ; I don't remember of any ; I have no recollection of any thing of the kind.

Q. Then all the examinations and means of knowledge of the condition of this bank is contained in the public records ?

A. That is as I remember it ; yes, sir.

Q. You don't recollect of having the bank examined by a special examiner, and all the reports of examinations are those contained in your reports to the legislature ?

A. That includes, of course, the regular examination by the examiners ; I have no recollection of any thing beyond that ; I think I should recollect if there had been.

Q. The law of 1857 transferred the superintendence of the savings banks to the superintendent of the bank department ; I want to ask you whether that law is in force now, I mean simply as to your powers ; whether you regard that law as in force, as to your powers ?

A. This law has been amended so that it covers more ground than the original act of 1857; I don't know that it repeals any portion of it.

Q. I will read this, "Whenever any savings bank or institution for savings shall fail to make a report in compliance with this act, or whenever the superintendent of the banking department shall have reason to believe that any savings bank or institution for savings is loaning or investing money in violation of its charter or of law, or conducting business in an unsafe manner, it shall be his duty, either in person or by one or more competent persons by him appointed, to examine their affairs; and whenever it shall appear to the superintendent, from such examination, that any savings bank or institution for savings has been guilty of a violation of its charter or of law, he shall communicate the fact to the attorney-general, whose duty it shall then become to institute such proceedings against said savings bank or institution for savings as are now authorized in the case of insolvent corporations. The expense of any such examination shall be paid by the savings bank or institution for savings so examined, in such amount as the superintendent of the banking department shall certify to be just and reasonable." Is that the law you are acting under?

A. The law of 1871 re-enacts substantially that, with additional powers; the law of 1871 requires regular examinations to be made once in two years; and that law of 1871 to some extent re-enacts the old law; there is a change in the phraseology, but the substance, the general scope of it, is very much the same.

Q. Well, I ask the question whether that law is in force?

A. I don't suppose it is now; it is repealed by the law of 1875, that is, portions of it, as I understand it; if you will look to the law of 1875, you will see that it refers to quite a large number of acts that are repealed.

Q. That is a question that you ought to be perfectly familiar with, and able to give me any information that I ask of you?

A. I can not give you any more than the law itself gives; the provisions are there: By reference to section 56 of the laws of 1875, it appears that chapter 136, of the act entitled "an act in relation to savings banks," passed March 20, 1857, is repealed.

Q. Then the authority is in that act now?

A. Yes, sir; prior to that it was in the act of 1871, which required the superintendent to make these regular examinations; prior to that there was no such power.

Q. The laws of 1857 give the power?

A. It gives power to make examinations, but the law of 1871 requires him to make them once in two years.

Q. That is the only difference?



A. No, it is not the only difference ; that is a difference ; there are other differences, but that was the marked feature in it.

By Senator WELLMAN :

Q. The charges state that this bank was closed up at a loss of \$600,000 ; not the governor's charges ; I am speaking now of the general statement made by Mr. Mack, in his charges ; the assets do not appear to be of that character, that ought to justify any such loss ; have you any knowledge on the subject whether there was any such loss sustained ?

A. All I know is, the receiver told me within a week, that he had paid fifty-five cents on a dollar, and thought he should be able to pay in full, if he could realize any thing like a decent price for the real estate he could pay in full.

By Senator ST. JOHN :

Q. You don't know that he has paid fifty-five only by what he says ?

A. That is what he said ; the report to the attorney-general shows that.

By Senator WELLMAN :

Q. I understand that the receiver's report to the attorney-general shows that he has paid fifty-five ?

A. Yes, sir ; so I am advised, I have not seen it.

Q. He has not yet closed up the business, then ?

A. No, he has not sold the real estate, and a good deal of the other assets ; that is his first dividend.

Examination in regard to the Bond Street Savings Bank, closed.

#### PEOPLE'S SAVINGS BANK, NEW YORK CITY.

The following examiner's report is put in evidence :

## PEOPLE'S SAVINGS BANK, NEW YORK CITY.]

[Examined November 10, 1875, by Geo. W. Reid.

ASSETS.	Rate of interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Bonds and mortgages.....	7	.....	.....	.....	\$81,300 00
Call loan on pass book.....	7	.....	.....	.....	2,428 18
North Carolina State bonds.....	6	\$10,000 00	8	\$800 00	800 00
Safe and fixtures.....	.....	.....	.....	.....	3,000 00
Cash in safe.....	.....	.....	.....	.....	
Cash in Bull's Head Bank.....	.....	.....	.....	1,467 05	
Cash in Bond Street Savings Bank.....	6	.....	.....	659 60	
Cash in Citizens' Savings Bank.....	6	.....	.....	4,000 00	
		.....	.....	3,000 00	
Interest accrued.....	.....	.....	.....	.....	9,126 65
Bonds of trustees.....	.....	.....	.....	.....	1,947 00
Deficiency.....	.....	.....	.....	.....	58,750 00
		.....	.....	.....	42,779 96
LIABILITIES.					
Due 1,523 depositors.....	.....	.....	.....	\$196,431 79	\$200,131 79
Interest accrued.....	.....	.....	.....	3,700 00	
		.....	.....	.....	200,131 79

*Annual income and charges thereon.*

INVESTMENTS, ETC.	Rate of interest.	Amount at par.	Revenue.	Totals.
<i>Income.</i>				
Bonds and mortgages.....	7	\$81,300 00	\$5,691 00	
Call loans.....	7	2,428 00	169 96	
Cash in bank.....	6	7,000 00	420 00	\$6,280 96
<i>Charges.</i>				
Interest to depositors.....	.....	.....	\$10,300 00	
Salaries.....	.....	.....	2,700 00	
Rent.....	.....	.....	3,500 00	
Internal revenue tax.....	.....	.....	200 00	
All other charges.....	.....	.....	500 00	
			17,200 00	
Deficiency of income .....	.....	.....	.....	\$10,919 04

The assets show only forty-nine per cent on the amount due the depositors. There are also trustees' bonds for about twenty-nine per cent more. If these assets, including the trustees' bonds, are all good, there is a deficiency of twenty-five or thirty per cent. The expenses of conducting the business are more than the whole income, leaving nothing to pay interest to depositors.

Mr. Mack asks to put in evidence the examiner's reports for the two preceding years. The committee rule that those reports are not competent.

*De Witt C. Ellis*, being duly sworn testifies as follows :

By Mr. CHAPMAN :

Q. When did you receive this report, dated November 10, 1875, which has been introduced in evidence ?

A. I received it the next day, on the 11th of November, 1875.

Q. When did you report the matter to the attorney-general for his action to close up the bank ?

A. On the same day.

Q. The records of your office show that fact, do they ?

A. Yes, sir.

It appears by the attorney-general's record in the case of *The People, of the State of New York v. The People's Savings Bank of the City of New York*, that 13 days after he received this notice from Mr. Ellis, namely, on the 24th of November, he obtained consent and order to show cause in the action ; that on November 26 a summons, complaint and order were served upon the president of the bank ; that on November 30, 1875, Mr. I. V. French was appointed receiver of the bank.

Q. These trustees' bonds that are alluded to had been taken prior to your being superintendent of the department ?

A. They were taken by Mr. Howell.

By Senator ST. JOHN :

Q. By the bank superintendent prior to your being superintendent ?

A. Yes, sir.

Q. Is there any authority which would compel trustees to give bonds ?

A. No, sir ; not that I could ever find ; if there was, I don't think there would be many trustees ; that was an arrangement by Mr. Howell to secure the depositors.

By Mr. CHAPMAN :

Q. Do you know of any reason why those bonds cannot be enforced ?

A. They have been paid ; they turned out to be very good security ; better than some of the bonds.

By Senator WELLMAN :

Q. The trustees' bonds were not enough to cover the final deficiency ?

A. No, sir.

By Mr. CHAPMAN :

Q. Enough, probably, to cover the deficiency at the time ?

A. They were at the time.

Q. But when this report came to you you would not accept trustees' bonds ?

A. I never took any bonds of the trustees, I think ; I required them to put in money or bonds and mortgages, or such security as the law permitted.

By Senator ST. JOHN :

Q. You did propose to take bonds in another instance, I think ?

A. No ; do you refer to the Mechanics and Traders' ?

Q. Yes ; I thought your letter suggested that ?

A. My letter did suggest bonds or cash, but I don't think I intended — I never have done it — to take personal bonds ; I don't say that the superintendent had not the right to do it ; I rather think he had ; I think Mr. Howell did in two or three cases.

Q. I would like to make the inquiry whether when these reports are made to you — these estimates of assets and liabilities from these various banks — whether you yourself, personally, give them a careful examination, to see whether the assets are worth, in your opinion, what the bank owes ?

A. I can tell you how they are treated, when they come to the office ; they first go to the head clerk.

Q. For tabulation ?

A. No, for examination ; he looks through all the items of assets, and if he finds every thing regular and straight, there is no particular mention made of it ; if he finds any thing that looks irregular, or any estimate that looks too high, or any thing of that kind, it is either handed to the deputy or myself, and we examine it carefully.

Q. You mean by that, if the clerk reports every thing all straight you take no further pains with it ?

A. No ; before they are finally sent to the public they are all examined ; I mean on the receipt of these papers from day to day as they are going in ; for instance, take the quarterly statement of the bank ; he examines all those ; that has been his business for years.

Q. I don't care about the quarterly statement, I am talking now about savings banks ?

A. They are all examined.

Q. Do you make an estimate yourself as to the value of these liabilities to see whether the bank has got a surplus or not ?

A. We do sometimes, but for real estate and bonds and mortgages we have to take them at their face.

Q. But where they have got these depreciated 'stocks, do you sit down and see whether those depreciated stocks are estimated at the fair market value, the prices to-day as they are reported in the papers and at the Stock Exchange, and whether these banks have got sufficient to pay their liabilities?

A. That is the practice in the office; I don't always do it personally; I could not if I tried; there are too many things to see to and to look after, to do all the clerical work in the office.

Q. Not clerical work at all; I mean after your clerk brings you the statement; to illustrate, this bank that we have examined, having various depreciated securities which had fallen in the market, and which paid no interest — I ask you the question whether you yourself examine that and see whether your deliberate judgment, after giving the bank credit for all its assets and charging it with its liabilities to depositors — whether you make a thorough examination to see whether that bank is able to pay?

A. You mean in the office?

Q. Yes.

A. As a general rule we do it.

Q. As a general rule you do?

A. Yes, sir; the deputy or myself examines it; if there is any peculiarity about the report, any bad securities or any thing of that kind we take particular pains to examine; take the Bowery report, for instance, we go through it and see that the figures are properly footed up; we are not particular about comparing all the items.

Q. I understand that perfectly; that is a bank that is beyond question?

A. We don't do in your bank as we do in some others.

Q. Those are not parallel cases exactly; take this very case where these securities are held as they were in the Mechanics and Traders' Bank where there was question about it, when there was doubt as to the value, and all that sort of thing, your examiner goes and makes a report and brings it to you, or the bank makes a report; do you accept that report as final without revising it and looking over it yourself, and seeing whether, in your opinion, the assets are sufficient to pay the debts?

A. No; we do not do that, we examine it.

By Mr. CHAPMAN:

Q. You make the best examination that it is possible for you to make under the circumstance, situated as you are?

A. Yes, sir; the deputy or myself always makes the examination; that is the rule.

Q. Do you ever change the figures from what comes from the bank or from your examiner ?

A. In the report ?

Q. Yes ?

A. No, sir ; we always publish the report as he sends it ; I think it has been sent back for correction ; sometimes, when errors have been made, and sometimes called back for correction ; we change errors in footing, or any thing of that kind.

By Senator ST. JOHN :

Q. A mere clerical error ?

A. Yes, sir.

Q. What I mean to say was, whether at the department you ever change the values of stocks or real estate, or any thing of that kind ?

A. I think not.

Q. You take the figures as they are reported to you ?

A. Yes, sir.

By Mr. CHAPMAN :

Q. They are returned to you under oath, are they not ?

A. The bank's reports are.

Q. Would you have any right to change the figures that were sworn to ?

A. I should not have any right but to publish them as they are reported.

Q. Wouldn't it be perjury ?

A. I am bound to publish their report as they make it, according to law, whether it is right or not ; I might publish a supplementary report.

By Senator ST. JOHN :

Q. If you were satisfied in your own mind that a bank had entirely overvalued its securities, would you publish it, or would you ask the bank to correct it ?

A. Of course, if I was satisfied they had overvalued I could send it back for correction, or I could publish that report and publish a statement with it that I did not think it was true, or something of that kind ; the law requires the superintendent to publish the report made by the bank ; he cannot make it for them, and he cannot change the figures.

Q. If the bank makes a report which you yourself consider an incorrect report, your course would be, not to change the report yourself, but send it to the bank and have it altered ?

A. Yes, sir.

By the CHAIRMAN :

Q. The bank examiner is a sworn officer, isn't he ; sworn to do his duty ?

A. I don't think he is sworn.

By Mr. CHAPMAN :

Q. Don't he have to take an oath ?

A. I think not.

Q. If you saw from a report (what Senator St. John alludes to) that there was *muggery* in that report, you might send it back for correction, and you might send an examiner down to go through and verify it ?

A. We do that with half the banks in the State.

By the CHAIRMAN :

Q. If you think the valuations in the report are too high on some of their assets, you send them back for correction ?

A. Yes, sir ; we send them back for correction often, for one thing and another ; we send back of the savings bank reports every year, more than one-half for correction, for one thing and another.

By Senator ST. JOHN :

Q. Many of them are merely clerical ?

A. Many of them are not clerical ; they get the figures mixed up ; they get items in the wrong place.

By the CHAIRMAN :

Q. Do you send them back for the correction or alteration of values of assets ?

A. I think we have, in a few cases ; I don't remember the exact cases.

By Mr. CHAPMAN :

Q. If you find any thing in a report that is not satisfactory, you either send it back for correction or else you send an examiner and examine the bank ?

A. Yes, sir ; always ; we do not publish any reports unless we think they are right.

Q. The law requires you to publish them as made by the company ?

A. The law requires us to publish the report made by the bank, and sworn to.

By Senator ST. JOHN :

Q. How much does this bank pay depositors ?

A. I don't know, sir ; it has not been closed up yet.

Q. Have they made a dividend ?



A. I think I was informed that they had paid 65 per cent; I am not positive about that; there are so many of these banks that I don't remember the exact amount.

Testimony closed in regard to the People's Savings Bank of the city of New York.

### TRADES' SAVINGS BANK.

In regard to charge No. 3, the following report by the officers of the Trades' Savings Bank, made January 1, 1876 [page 176 and 177 of printed report], is read in evidence :

#### 94. TRADES' SAVINGS BANK, NEW YORK CITY.

[224 West Twenty-Third street ; incorporated 1870.]

ALEXANDER M. LESLEY, *President*.

I. M. FREESE, *Secretary*.

### FINANCIAL.

#### RESOURCES.

Bonds and mortgages.....	\$55,375 00
Stock investments, viz.:	

#### *Stocks and Bonds :*

	Cost.	Par value.	Estimated market value.	
Cities in this State..	\$31,260 00	\$31,500 00	\$32,515 00	31,260 00

Amount loaned on stocks, as authorized by section 27, chapter 371, Laws of 1875 .....	125 00
Cash on deposit in banks or trust companies .....	10,077 70
Cash on hand.....	10,917 50
All other assets not included above, viz.:	

#### Amount loaned on collaterals, viz. :

Long Island City bonds, and bonds and mortgage.....	\$11,000 00
--	-------------

Excess of market value of stock investments over cost.....	1,255 00
---	----------

Accrued interest .....	1,067 55
------------------------	----------

United States revenue and postage stamps.....	318 32
--	--------

Interest accrued on bond and mort- gage under foreclosure.....	466 66
---	--------

14,107 53

\$121,862 73

## LIABILITIES.

Amount due depositors.....	\$120,323 15
Principal.....	\$117,606 74
Interest credited for the six months ending January 1, 1876.....	2,716 41
Other liabilities, viz.: Certified check.....	70 00
Surplus.....	1,469 58
Surplus based upon par value of stock investments.....	\$454 58
	<hr/>
	\$121,862 73
	<hr/> <hr/>

## CASH TRANSACTIONS DURING THE YEAR 1875.

## RECEIPTS.

Cash on hand and in bank or trust companies January 1, 1875, before transactions of the day.....	\$17,796 43
From depositors .....	507,967 05
From interest on loans, deposits and investments.....	8,125 57
From all other profits, viz., rents.....	715 82
From mortgages paid, called in or foreclosed.....	13,000 00
From redemption of stocks.....	11,000 00
From loans repaid....	118,230 00
From other sources, viz.:	
Profit and loss.....	\$4,090 00
Certificates.....	29,924 70
Fixture account .....	7,996 49
Real estate .....	16,483 29
Exchange .....	118 99
Mamaroneck town bonds.....	7,940 00
	<hr/>
	66,553 47
	<hr/>
	\$743,388 34
	<hr/> <hr/>

## PAYMENTS.

To depositors, including interest paid to them.....	\$494,368 76
For loans on bonds and mortgages.....	43,375 00
For loans on stocks and other securities.....	99,335 00
For stocks and bonds purchased, par value \$28,000 ....	27,760 00
For real estate purchased .....	16,483 29
For interest, not included in payments to depositors....	281 84
For expenses, viz.:	
Salary of assistant secretary.....	\$780 00
Salary of teller.....	216 00

Taxes .....	\$237 24	
Other expenses .....	5,067 70	
	<hr/>	\$6,300 94
Other payments, viz. :		
Profit and loss.....	\$308 55	
Certificates.....	34,179 76	
	<hr/>	34,488 31
Cash on hand and in Bank December 31, 1875, after transactions of the day.....		20,995 20
		<hr/> <hr/>
		\$743,388 34

### STATISTICAL INFORMATION.

Number of open accounts January 1, 1876.....	809	
Number of accounts opened during the year 1875 .....	677	
Number of accounts reopened during the year 1875 .....	42	
	<hr/>	719
Number of accounts closed during the year 1875..	520	
Amount deposited, including interest credited, during the year 1875 .....		\$514,481 93
Amount of deposits withdrawn during the same period,		494,368 76
Amount of interest credited to depositors for the year 1875.....		6,574 88
Amount of each semi-annual credit of interest for the year 1875, and when credited :		
July 1, 1875.....	\$3,521 49	
January 1, 1876.....	2,716 41	
Credited at other periods during the year .....	276 98	
Paid, but not credited, during the year .....	265 42	
	<hr/>	6,780 30
Amount of the largest single deposit, exclusive of interest,		5,000 00
Average amount of each deposit, January 1, 1876.....		186 50
		<hr/> <hr/>

Rate per cent of dividends or interest to depositors during the past year, 4 and 6 per cent.

Also the following report by the examiner [page 331 of printed reports] :

TRADES' SAVINGS BANK, NEW YORK CITY.  
*[Examined January 13, 1876, by George W. Reid.]*

ASSETS.	Rate of Interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Bonds and mortgages .....	7	.....	.....	.....	\$55,375 00
Call loan on B. and M., town b'ds and U. S. b'ds .....	.....	.....	.....	.....	11,200 00
Buffalo city bonds .....	7	\$14,500 00	105	\$15,225 00	
Long Island city bonds .....	7	7,000 00	100	7,000 00	
Cash in safe .....	.....	.....	.....	\$6,616 84	22,225 00
Cash in Grocers' Bank .....	.....	.....	.....	4,781 08	
Safe and fixtures .....	.....	.....	.....	.....	11,397 92
Interest accrued .....	.....	.....	.....	.....	2,000 00
					675 00
LIABILITIES.					
Due depositors .....	.....	.....	.....	\$100,320 58	\$102,872 92
Interest accrued .....	.....	.....	.....	120 00	
					100,440 58
Surplus .....	.....	.....	.....	.....	\$2,432 34

*Annual income and charges thereon.*

INVESTMENTS, ETC.	Rate of interest.	Amount at par.	Revenue.	Totals.
<i>Income.</i>				
Bonds and mortgages.....	7	\$55,375 00	\$3,876 25	\$6,356 49
Call loans.....	7	11,200 00	784 00	
City bonds.....	7	21,500 00	1,505 00	
Cash in bank.....	4	4,781 00	191 24	
<i>Charges.</i>				
Interest to depositors.....	.....	.....	\$4,450 00	5,713 00
Salaries.....	.....	.....	988 00	
Internal revenue tax.....	.....	.....	125 00	
All other charges.....	.....	.....	150 00	
Excess of income.....	.....	.....	.....	\$643 49

*Henry L. Lamb*, a witness called on behalf of the defendant, being duly sworn, testifies:

By Mr. CHAPMAN:

Q. Are you deputy superintendent of the banking department?

A. I am.

Q. How long have you been such?

A. I was appointed and began to discharge the duties the first day of May, 1873.

Q. The Trades' Savings Bank was a small bank, was it not?

A. Yes, sir; it was always a small bank.

Q. Do you recollect of the examiner, Mr. Reid, having made a personal examination of the bank, as of January 13, 1876?

A. I recollect that he made a report of that date.

Q. Reporting the amount of assets at how much?

A. [Referring to report] Mr. Reid reported that the assets were \$102,872.92.

Q. Liabilities how much?

A. The liabilities were \$100,440.58.

Q. Leaving what surplus, as of the date of his examination?

A. \$2,432.34.

Q. From the time of that examination down to August following, do you know of any other examination having been made; from the date of January 13, down to August, 1876?

A. That is, between January 13 and August 1 was any examination made?

Q. Yes; to your knowledge?

A. No, sir; none, to my knowledge; none was ever reported to the department.

Q. In August, 1876, was Mr. Ellis away; do you remember?

A. Yes, sir; he was away on his vacation; I think he went away about the first of August.

Q. Do you recollect, as deputy superintendent, of receiving Mr. Reid's report of his examination as of August 8, 1876?

A. Yes, sir; I received this in the department; [paper handed witness] it is dated the 9th day of August, 1876.

Q. Can you tell whether that was received by mail or not?

A. I could not be positive, but I think it was.

By Senator ST. JOHN:

Q. What is that, the examiner's report?

A. Yes, sir; of the date of the 9th of August, 1876; Mr. Reid commonly sends a package by express, but a single one usually comes by mail.

By Mr. CHAPMAN :

Q. When was this report filed in the department ?

A. It was filed in the office on the 10th day of August, 1876.

Q. That report shows a deficiency, does it ?

A. This report shows a surplus of \$60.67 ; but the examiner reports among the assets two mortgages, with the memorandum, " owned by bank ; no title shown."

By Senator WELLMAN :

Q. What is the amount of those mortgages ?

A. \$21,000 ; and it seems to me, if they had this property without title, they were not solvent.

By Mr. CHAPMAN :

Q. That is a pencil mark, is it not, against the mortgages ?

A. Yes ; it is a part of the report ; that is Mr. Reid's own handwriting ; one memorandum is : " Owned by bank ; no title shown," and the other, " not recorded ; no title shown."

By Senator WELLMAN :

Q. Do I understand by that they did not show any title to the land on which the mortgage was based, or did not show any ownership of the mortgages ?

A. I construed it that it did not show any ownership of the mortgages.

By Mr. CHAPMAN :

Q. At any rate, there was enough suspicions about that report made to you by Mr. Reid, so that you thought it was expedient to report the bank to the attorney-general ?

A. That was my conviction.

Q. On receipt of this report, did you report the bank to the attorney-general ?

A. I did in three or four days ; I considered the question somewhat what I had best to do in view of it.

Q. Did you on August 14th report the bank to the attorney-general for him to close it ?

A. Yes, sir ; I did.

Q. That is, within four days after this was filed in the department ?

A. Yes, sir.

From the book entitled " Register, Attorney-General's Office," it appears that twelve days thereafter, to wit, on August 26th, the attorney-general served summons, complaint, injunction, and order to

show cause in this case, of *The People of The State of New York v. The Taades' Savings Bank*, that on September 14th, the attorney-general received an answer in the case; that on October 27th the attorney-general received notice of the answer being withdrawn; and on that day he appointed Samuel B White receiver.

Q. I will ask you whether subsequently you received from the register of the city of New York a certificate showing that the bank did own the mortgages, and that they were recorded in the register's office of the city of New York?

A. I did receive such a paper from the president of the bank.

Q. Is that the paper? [Handing witness a paper.]

A. That is the instrument; this paper was received subsequent to the proceedings.

Q. Subsequent to your reporting it to the attorney-general?

A. Yes, sir; I received it probably the 25th, the next day after it was made.

The certificate referred to, from the deputy-register of the city of New York, under the seal of the office, and dated August 24, 1876, states that the mortgages before alluded to in the report of Mr. Reid had been recorded by the register of the city and county of New York.

By Senator ST. JOHN:

Q. Do you know whether these mortgages were ever of any value? did they prove to be good security?

A. I cannot tell you; this paper was received by me the 24th of August, and the next day the bank was closed by injunction — or a couple of days thereafter — and we had no official cognizance of any transactions of the bank after that.

By Mr. CHAPMAN:

Q. After it is reported to the attorney-general's office, you have nothing to do with it in your department?

A. Nothing at all.

By the CHAIRMAN:

Q. Was there any special report made in regard to this bank in November, 1875 — special report and letters of George W. Reid; are there any other reports than have been produced here?

A. I think there was an examination of the bank made in November, 1875; that is my recollection.



By Mr. CHAPMAN:

Q. What was the result of that examination?

A. I believed it showed a small deficiency.

Q. What was done with that deficiency?

A. The bank, or the officers of the bank, were informed that they must make it good.

Q. What did they do?

A. They had a piece of real estate in the city of New York, known as the Beach street property, acquired by the foreclosure of a mortgage; that property they remodeled; there is a report on file in the department, of November, I suppose.

Q. Have you got that here?

A. No, sir; I have not.

Q. Can you get them by going over to the department?

A. I don't know that I could at this hour, because the clerk who has had this correspondence in charge, looking it up, is now absent from the office; I could produce it to-morrow morning, I suppose, or at any other time; it is five o'clock now, and the office closes at four, and the vault is locked up.

Mr. Mack desires to interrogate the witness in regard to the People's Savings Bank.

By Mr. MACK:

Q. What was the standing — the general reputation of the People's Savings Bank — from the time you were appointed deputy superintendent, until the closing of it; have there been complaints, letters, memorandums or private examinations, which have not come in any of those published reports; I want the whole — documents, complaints, letters, conversations, etc.; the general reputation of the bank?

A. It was counted among the weak savings banks in New York.

Q. Any complaints, letters or private memorandums about it, conversations or examinations that are not published; if there are we want to know it and then we are through.

A. I have no question we have got correspondence in respect to that bank, but what the statements are the correspondence would show better than I can say now; the records themselves.

Mr. Mack asks that the witness produce all documents relating to the three banks thus far inquired about.

The committee state that they will receive any thing that bears directly upon the charges made by the governor.

Adjourned to May 9, 1877, 10 A. M.

ALBANY, *May 9, 1877.*

The committee met at 10 A. M., pursuant to adjournment.

Present—Senators COLEMAN (chairman), WELLMAN and ST. JOHN.

TRADES' SAVINGS BANK — *Continued.*

*De Witt C. Ellis*, recalled :

By Mr. CHAPMAN :

Q. Have you had an examination made in your department for the purpose of finding all letters and papers in your department in connection with the Trades' Savings Bank ?

A. I have.

Q. Have you had Mr. Lamb and your clerks examine in regard to it ?

A. I have.

Q. Charley and one other clerk ?

A. Yes, sir ; they went through the whole file.

Q. For papers pertaining to this charge prior to November, 1875, and subsequent to the time Mr. Lamb reported the case to the attorney-general ?

A. Yes, sir ; every thing.

Q. Is this the bundle of papers which you have found in connection with that bank [handing witness papers] ?

A. Yes, sir ; these are the papers and letters and reports, and every thing.

Q. Commencing with 1873, and going down to September, 1876 ?

A. Yes, sir.

By Senator ST. JOHN :

Q. These are all the papers found in connection with it ?

A. Yes, sir.

By Mr. CHAPMAN :

Q. In your examination of these charges, I will ask you, whether prior to yesterday, whether your attention had been directed to any examination made in November, 1875 ?

A. No, sir ; not since that time.

Q. I say, in your examination of the charges ?

A. No, sir ; it was the first time I had thought any thing about it, and on reading the charges and looking over the reports, I supposed it to refer to that examination which appears in that report of January 13, 1876 ; it had entirely escaped my recollection that any examination

was made in November, until it was spoken of here yesterday; I have a good many of those things to keep in my mind, and I cannot remember every thing without referring to the papers.

Q. I will ask you whether there was any thing in the copy of the charges served upon you which called your attention to the November examination?

A. No, sir; there was not; I never saw any papers except the message of the governor.

Q. And all there is in relation to the 'Trades' Savings Bank in the message of the governor is this: "A similar charge as to the Trades' Savings Bank"?

A. Yes, sir.

By Senator ST. JOHN:

Q. The examination in 1875 was made by special examination?

A. Yes, sir.

By Mr. CHAPMAN:

Q. [Paper shown witness.] I ask you if this is the report of the examination made in November, 1875, which was filed in your department December 2, 1875?

A. Yes, sir; that is the report.

Q. By that report there appears to be a deficiency of assets of \$6,538.29?

A. Is it so reported?

Q. The amount of real estate is \$13,353.29; the deficiency of income \$1,425.75; this value carried out to this real estate bid in on foreclosure as \$13,000 — that was the cost to the bank in bidding it in on foreclosure?

A. That is as I understand it; that is as he reports it.

Q. Subsequently and prior to January 1st, was this real estate reported as having been sold by the bank?

A. Prior to January 1st?

Q. Prior to the examination of January 13th?

A. Yes, sir; it was reported by the examiner's report.

Q. On the examination reported to you, as of January 13th, the item of bonds and mortgages is increased \$21,000 over that of December 2d?

A. It appears so by the report.

Q. And there is no real estate found by the examiner as belonging to the bank on that day?

A. No, sir.

Q. What were you informed was done with this real estate which was reported December 2d as worth \$13,000?

A. It was a building ; I never saw it, but the examiner stated that they were changing it into flats for rent, expending several thousand dollars on it with a view to selling it or renting it ; that is the report made to me.

Q. And was it reported to you that it was sold before this January 13th examination ?

A. It was ; yes, sir.

Q. For how much ?

A. Some \$28,000, I think ; I don't remember the exact figures.

By Senator WELLMAN :

Q. Do I understand you that flats had been built upon this land by the bank, or that the building was already in flats ?

A. They turned it into flats ; yes, sir.

Q. The buildings were on it and they turned them into flats ?

A. Yes, sir ; expending \$6,000 or \$7,000, I was told in conversation with the secretary ; they expended that on the building to put it into shape so that they claimed it would pay good interest on \$30,000 to rent ; that is the way they reported it ; of course I don't know any thing about that as a matter of fact except from the report and statements.

By Senator ST. JOHN :

Q. You took their reports about it entirely ?

A. I took their reports ; the examiner makes a report of what he finds there.

Q. Then the examiner took the representation of these parties in reference to the value of the building ?

A. Yes, sir.

By Mr. CHAPMAN :

Q. It appears by the examiner's report of January 13th, that they did not own any real estate, that they had disposed of it.

A. It so appears.

Q. And you suppose it to be true ?

A. It says so ; it don't appear ; it says so.

Q. On the receipt of this examination, which was filed December 2d, what did you do ?

A. I don't know whether I wrote to the officers or not, but the secretary of the bank came up here immediately, or within a very few days, in regard to this report and the condition of his bank ; I told him that if they could not put that bank on a sound basis, and make good that deficiency to secure the depositors, I should close them up.

By Senator WELLMAN :

Q. What time was this ?

A. Right away after this report was made, in December ?

Q. That was the secretary ?

A. Yes, sir ; the secretary came up here ; he promised to do it at once.

By Senator ST. JOHN :

Q. He promised to put it on a good footing ?

A. To make it sound and strong ; he talked as a good many of them do, pretty large, about *that* bank ; that there never should be any loss *there*, and all that sort of thing ; and went back to do it, as he said ; he assured me he would do it.

By Mr. CHAPMAN :

Q. Did he claim that this real estate was worth more than the amount it was carried out there — \$13,000 ?

A. Oh, yes ; my recollection is that he claimed that it was worth \$20,000, and the loan, I think, was \$10,000 ; the loan was made ; he claimed on that basis.

Q. And putting the real estate at the value that he claimed for it, there would have been no deficiency on the date of your examination ?

A. No, not if we had taken their estimate.

By Senator ST. JOHN :

Q. He claimed that it was worth \$20,000 ?

A. Yes, sir ; that was the original claim, that the property was worth that when the loan was made.

By Mr. CHAPMAN :

Q. I ask you if, on December 25th, 1875, you sent a letter to the president of the bank, of which that is a copy [handing witness a paper] ?

A. I did.

The letter shown to the witness is as follows :

ALBANY, December 25th, 1875.

*Alex. M. Leslie, President Trades' Savings Bank, New York City :*

DEAR SIR — The report of the examination of your bank shows that there is a deficiency of assets with which to meet its liabilities. The settled policy of the department is to close up all such banks unless the deficiency is made good at once. Your immediate attention is called to this matter with the hope that you will be able to put your institution on a sound footing before the 1st of January.

D. C. ELLIS,

*Superintendent.*

Q. [Paper shown witness.] Did you after this letter, and before the 1st of January, telegraph to the officers of the bank, inquiring whether they had done any thing?

A. I suppose so, from this answer; I don't remember [the exact fact; I received this telegram from Mr. Freese, the secretary of the bank, which seems to be in reply to mine.

The telegram referred to is as follows:

“NEW YORK, December 31st.

“To D. C. Ellis, Superintendent:

“Telegram received. Every thing fixed up as proposed.

“I. M. FREESE.

“Secretary.”

Q. I now ask you if you relied upon their statements, or if you sent Mr. Reid to make another examination and see whether these statements were true?

A. I sent him to make another examination to verify their statement, and see whether they had complied with the requisition I made of them.

Q. Is that examination which he made in response to this requisition of yours, the examination which was introduced in evidence yesterday as of January 13?

A. That is the report.

Q. That showed that they had fixed it up, and that there was a surplus on that date, January 13, 1876, of \$2,432.34?

A. Yes, sir.

Q. And in that examination of January 13, Mr. Reid cut down the safe and fixtures one-half, did he not?

A. Yes, sir; I objected to that item as too large.

Q. As returned in December at \$4,000?

A. Yes, sir.

Q. And with that thus cut down, it shows this surplus of \$2,432.34 on January 13, 1876?

A. Yes, sir; it was so reported.

Q. Did that report of January 13, 1876, show an excess of income of \$643.49?

A. Yes, sir.

Q. I will ask you whether, after the examination of January, 1876, you did not instruct Mr. Reid to keep watch of this bank?

A. I did, and several others of the weaker banks of New York; to keep an eye on them, and if he heard any thing, or heard any suspicion, to drop in on them at any time and examine them; that was a standing commission that he had.

By Senator ST. JOHN :

Q. To keep watch of this and other banks ?

A. Of the same class of banks ; there were half a dozen small banks there.

By Mr. CHAPMAN :

Q. You speak of weak banks ; what do you mean by a weak bank ?

A. I mean that all banks are weak until they get strong ; when a bank starts, a young bank, it is small, and it takes time, ordinarily, for them to get to be what we call strong banks.

By the CHAIRMAN :

Q. If a bank showed little surplus, or none at all, or a small surplus, you would call it a weak bank ?

A. Yes, sir ; I would consider it a weaker bank, perhaps, not to say a weak bank ; it is a weaker bank than a stronger one that has got more surplus.

By Mr. CHAPMAN :

Q. All savings banks commence with a first deposit, do they not ?

A. Yes, sir.

Q. And gradually go up ?

A. They commence without any capital on the deposits of people who believe in them, and of course a young bank, of short life, must be necessarily a small bank.

By Senator WELLMAN :

Q. Was it under this general instruction that Mr. Reid proceeded to the examination in August ?

A. I think it was.

*Henry L. Lamb*, recalled :

By Mr. CHAPMAN :

Q. I ask you whether at the time of this examination in July, you did require Mr. Reid to make this examination, from something that had attracted your attention ?

A. I wrote a letter to Mr. Reid under those circumstances, saying that he had better go and look into it ; he went there and the secretary would not let him make an examination unless he had a commission.

By Senator ST. JOHN :

Q. In August ?

A. Yes, sir ; and then I issued a commission for a special examination.

By Mr. CHAPMAN :

Q. And it was on that examination that you reported the bank to the attorney-general ?

A. Yes, sir.

Q. Mr. Ellis was away on his vacation at this time ?

A. Yes, sir.

Q. And you were acting as superintendent, under the law ?

A. Yes, sir.

*D. C. Ellis*, recalled :

By Senator ST. JOHN :

Q. I want to go back to the time of that examination, in relation to the two mortgages of \$21,000 ; were those mortgages ever reported to the bank department before that time ?

A. No, sir.

Q. The mortgages were taken for the sale of this real estate ; was that it ?

A. Not the original sale, as I understand it ; as I understand it they sold this property and took back a mortgage ; it was not this mortgage ; subsequently, the next year, it seems now by that report, at least I have got that impression from some source, that the maker of the mortgage, the buyer of the property, failed to pay ; at any rate they got possession of the property again ; it came back on them, and it seems that they resold it, and these two mortgages that he says he does not find any record of, were the mortgages given on this resale, prior to this examination, a short time before, as I understand it ; they never had been reported to the department in any form.

Q. But were taken for the sale of real estate which they owned ?

A. It seems so.

By Mr. CHAPMAN :

Q. I ask you whether you had any knowledge of any thing of this kind until after the case was handed to the attorney-general ?

A. No, sir ; when the case was handed to the attorney-general these facts came out ; we had no evidence of it whatever.

By Senator ST. JOHN :

Q. I would like to know whether in any of these examinations—I mean all the other banks that we have gone through—whether at any time when you have had suspicion in regard to the stability and



soundness of these banks, you have examined the officers or employees, or any body connected with it, under oath, as to the truth or falsity of their reports, etc. ?

A. I personally make very few examinations ; Mr. Reid does, sometimes.

Q. You have not administered any oaths to any person in relation to their condition ?

A. This bank.

Q. Any of these banks which we are investigating ; what I mean to say is, have you or your examiner (because he represents you in it) had the officers of these banks examined under oath ?

A. I cannot say that ; I know in some cases he does.

Q. I simply want you to let me know whether you have done it or not ?

A. I say, personally, I have not.

Q. You think Mr. Reid has ?

A. He has told me so ; I know that he has in some instances.

Q. Did he report those examinations to you in regard to any of these banks ?

A. Any of this list of banks ?

Q. Yes, any of these banks that failed ?

A. No, I think not ; that he put them under oath ?

Q. Yes ?

A. No, sir ; I don't think he has ; I don't recollect of any now, although he may have done so.

By the CHAIRMAN :

Q. I suppose you mean by that that he did not state the fact in his reports, that he had examined them ?

A. No, sir.

By Senator ST. JOHN :

Q. You really don't know what he has done about it, do you ?

A. I only know what he says ; he reported to me verbally.

Q. We were talking yesterday about the power of the superintendent of the bank department, and I referred to that law of 1857 ; it was the law of 1857 which transferred to the superintendent of the bank department the power of supervision over the savings banks, was it not ?

A. Yes, sir.

Q. Now, did you act under that law up to 1875 ?

A. No ; I acted under the law of 1871.

Q. What is the law of 1871, in regard to your powers ?

A. It is similar to the law of 1857.

Q. You acted under the laws of 1857 and 1871 ?

A. Yes, sir.

Q. Up to 1875 ?

A. Yes, sir.

Q. Then you acted under the law of 1875 ?

A. Yes, sir.

Q. Does not the law of 1875 give you much more extensive and larger powers than are contained in either of those other laws ?

A. In regard to examination ?

Q. Yes ?

A. Not much ; about the same thing.

Q. Did either of the other laws allow you to examine under oath ?

A. Yes, sir ; I think they did ; I am not certain about that though ; it is my impression that we had power under all [these laws to examine officers under oath.

Q. But you have never done it yourself ?

A. I don't think I have personally.

Q. Do you know of any one bank where Mr. Reid examined the officers under oath — any one of these banks ?

A. Not of these ; I can name banks.

Q. I mean the banks in trouble — the banks that failed ?

A. No, I cannot name any.

Q. The law of 1875, in relation to your powers and duties, I think is very much more ample than the law before ; a more extensive law. I will read a portion of it : “ It shall be the duty of the said superintendent, once in two years, either personally or by some competent person or persons to be appointed by him, to visit and examine every savings corporation in this State. The superintendent shall also have power in like manner to examine any such corporation whenever, in his judgment, its condition or management is such as to render an examination of its affairs necessary or expedient. The said superintendent and every such examiner shall have power to administer an oath to any person whose testimony may be required on any such examination, and to compel the appearance and attendance of any such person for the purpose of such examination, by summons, subpoena or attachment, in the manner now authorized in respect to the attendance of persons as witnesses in the courts of record of this State, and books and papers which it may be deemed necessary to examine by the superintendent or examiner or examiners so appointed, shall be produced, and their production be compelled in like manner.” That is your authority ?

A. That is the law.

Q. You have not done that ; you have not examined under oath, as I understand you, any banks ?

A. That is what I have stated, I said that Mr. Reid had, though?

Q. But you are not able to mention any one bank?

A. Not of that list that you have got there.

Q. Well, they were the bad ones?

A. Not all of them.

Q. In looking at these returns which were made by these officers in regard to mortgages and various things, and estimates of value, had you no suspicion that those were incorrect or put above what they really were worth?

Q. What case do you speak of?

Q. I speak of these values of real estate and various things?

A. No, sir.

Q. You had no suspicion that they were appraised above their value?

A. I had no reason to have suspicion in those cases any more than any other, that I know of.

Q. You had suspicions in reference to some of these banks, or you would not have sent the examiner to look after them — I mean extra examinations?

A. Yes, sir.

Q. Having that suspicion was it not right and proper that these men should be investigated under oath to find out just how their banks stood?

A. We found enough to close them up without going any further; that is the reason, I suppose; we found enough in these cases to close them up, and did close them up on the report, without any further examination; of course, as a matter of discretion, we could have gone on and spent weeks, going through the examination in detail, and it would have resulted in closing them up in the same way; but when we found enough to satisfy us we did not go any further.

Q. In this bank that we have under consideration now, you found, in 1875, a deficiency of 6,000 and odd dollars, and a deficiency in assets; you did not close it up; there was a deficiency of income of \$1,425, and it was a small bank?

A. Yes, sir.

Q. Had you no suspicion that some of their affairs were out of the way, or not properly reported?

A. No, sir; because Mr. Reid made the examination and found this deficiency himself.

Q. But you did not think there was sufficient cause for you to put the bank in liquidation?

A. I did unless they made it good, and I required them to do so; if they had not done it, they would have been closed up; it is a question of discretion whether the superintendent shall close a bank up at once

or whether he shall ask them to make up the deficiency; as I understand the law, he is clothed with the discretionary power, and it is for him to exercise it to his best judgment, and my best judgment was to do all I could to protect the depositors in these banks; if there was a deficiency, and the trustees saw fit to pay in the money, it was for the benefit of the depositors; that is my idea about it, and it always has been.

Q. The 44th section of this law is: "Whenever it shall appear to the said superintendent, from any examination made by him, or from the report of any examination made to him, or from the report made by any such corporation pursuant to the requirements of sections 36, 37 and 38 of this act, that any such corporation has committed any violation of its charter or of law, or is conducting its business or affairs in an unsafe or unauthorized manner, he shall by an order under his hand and seal direct the discontinuance of such illegal and unsafe or unauthorized practices, and strict conformity with the requirements of the law and with safety and security in its transactions; and whenever any such corporation shall refuse or neglect to make any such report as is hereinbefore required, or to comply with any such order, as aforesaid, or whenever it shall appear to the superintendent that it is unsafe or inexpedient for any such corporation to continue to transact business, he shall communicate the facts to the attorney-general, who shall thereupon institute such proceedings as the nature of the case may require." Then you regard that as simply a matter of discretion on your part?

A. I construe that to mean that the superintendent must exercise his judgment in regard to it; I think all superintendents have so construed the law.

Q. There is no other superintendent but you that ever acted under this law?

A. The same provision is in all the laws, or substantially the same provision.

By Mr. CHAPMAN:

Q. Except the first part that he read?

A. Yes, sir; that clause, I know that all the superintendents have so construed it, and you will find it in all the reports, and it has never been complained of before, I believe; I never heard of it.

By Senator ST. JOHN:

Q. The law of 1857 does not give the authority to the superintendent, clearly, to examine the officers of banks under oath?

A. That may be so.

Q. Well, is it not so ?

A. The law shows for itself; I have not got it before me.

By Mr. CHAPMAN :

Q. In regard to this power to administer an oath to any person, these returns are made upon blanks, which are sent to the officers by the department ?

A. You mean the reports ?

Q. Yes ?

A. Yes, sir.

Q. The annual reports ?

A. Yes, sir.

Q. They are required to swear to them, are they not ?

A. Yes, sir.

Q. If they swear to the truth, would there be any particular advantage in swearing them again ?

A. I suppose not.

Q. By this law of 1875 you are compelled to examine all the savings banks once in two years, are you not ?

A. Yes, sir.

Q. Is it practically possible to make such an examination as is indicated of all these savings banks once in two years ?

A. To make what kind of an examination ?

Q. Such examinations as have been indicated; swearing all the parties ?

A. No, sir.

Q. Take the case of the Trades' Savings Bank, had you any reason to lead you to think that their reports were not true ?

A. No, sir.

Q. Or that they had sworn falsely ?

A. No, sir.

Q. It subsequently turned out, when you came to your examination in August, that they were in an unsound condition ?

A. Yes, sir.

Q. Is it possible for the superintendent to know at all times the condition of all the savings banks in the State ?

A. I should think not; that is my experience; I think it would be a very wise man that could; he may think he knows.

Q. I will now read a portion of the law which the senator read; section 44 of the act of 1875: "Whenever it shall appear to the said superintendent, from any examination made by him, or from the report of any examination made to him, or from the report made by any such corporation, pursuant to the requirements of sections 36, 37 and 38 of this act, that any such corporation has committed any violation of its

charter of the law or is conducting its business and affairs in an unsafe or unauthorized manner, he shall, by an order under his hand and seal, direct the discontinuance of such illegal and unsafe or unauthorized practices, and strict conformity with the requirements of the law and with safety and security in its transactions." In this Trades' Savings Bank did it appear to you, from any examination made, or from any report of any examination made, that this bank had committed any violation of its charter or of law, or was conducting its business and affairs in an unsafe or unauthorized manner?

A. No, sir; there was nothing in any of the reports.

Q. Well, did it appear to you?

A. No, sir; it did not.

Q. Until the final report to the attorney-general?

A. No, sir.

Q. Now I come down to the next subdivision of the law, which I will read: "Whenever it shall appear to the superintendent that it is unsafe or inexpedient for any such corporation to continue to transact business, he shall communicate the facts to the attorney-general, who shall thereupon institute such proceedings as the nature of the case may require." Now, I ask you whether, prior to the time when this bank was reported to the attorney-general, it appeared to you that it was unsafe or inexpedient for the bank to continue to transact business?

A. No, sir; it did not.

Q. I ask you whether, in the light of all the information you had at the time, you did not, in connection with this bank, exercise the best judgment you had?

A. I did.

By the CHAIRMAN:

Q. By whom are the reports, made by the bank to the department, sworn to?

A. By the president and secretary, ordinarily.

Q. Who, when they do not swear to them?

A. Some of the officers of the bank, the vice-president, the treasurer, perhaps, but ordinarily they are sworn to by the two leading officers.

By Senator ST. JOHN:

Q. When you find a bank of this character with a large amount of real estate, is not that rather a suspicious circumstance in regard to the standing of that bank; legally, they have no right to hold, except for their purposes of business, any property except such as falls into their hands?

A. That is the way they acquired their real estate, by its falling into their hands on a mortgage.

Q. The fact that they make loans on property which they are compelled to take up—does not that show a want of judgment on the part of these managers of the bank in making the loans?

A. I could not hardly say that, from the fact that the very best banks we have in New York State are now, and have been for years, obliged to foreclose more or less of their mortgages and bid in their property; that is particularly so in the city of New York; it may not be so much so in other places; but as a matter of fact the very best banks we have got there have to take more or less real estate.

Q. There are very few that report as much real estate in proportion as this, certainly?

A. I don't know about that.

By the CHAIRMAN:

Q. You stated that the officers of the bank, the president and secretary, or the vice-president and secretary, swore to their reports; do not the examining committee also swear to the same report?

A. Yes, sir; the officers swear to the report as the law provides, based on the sworn report of the examining committee of the bank.

By Senator ST. JOHN:

Q. That is since 1875?

A. Yes, sir.

Q. Who are your examiners now?

A. Mr. Reid; he makes the most of them.

Q. I want to know for the last two years who have acted as examiners for these banks; Mr. Reid and who else?

A. For two years past?

Q. Yes?

A. I think that he has made all of the examinations of savings banks since some time in the summer of 1875, since the passage of this act.

Q. He has made all the examinations of savings banks?

A. I think so; he may have been assisted in the early part of the season by some other gentlemen; there was a time when there were three or four; but just when the change was made I don't remember exactly.

Q. You have had no special examiners at all except Mr. Reid?

A. No, sir; I think not for savings banks.

Q. Where does Mr. Reid reside?

A. He is living at present in Elizabeth City; he has an office in New York.

Q. Then you have but one examiner who is a salaried officer?

A. Yes, sir.

Q. What is his salary ?

A. It is in the report there, \$3,800 a year ; this report shows only a part of a year.

Q. You know what salary he has for a year, do you not ?

A. He has \$3,800, I think.

[Mr. Lamb states that the salary of Mr. Reid is \$4,500 and expenses.]

The WITNESS—That covers all his traveling and office expenses.

Q. You have spoken a number of times about the impossibility of examining these savings banks; you have authority to appoint as many examiners as you like, have you not ?

A. Yes, I suppose so, by the law.

Q. Are you restricted in your selection in any way ?

A. To examiners ?

Q. Yes ?

A. No, sir.

Q. I mean by that if you wanted a bank examined in Buffalo, and you knew a first-class man to go in and look over the place, and report to you, it would be competent for you to appoint him ?

A. I would have the power to appoint him, I suppose.

Q. So that the examinations could not suffer, if you chose to trace them up; you could get all the examinations you wanted ?

A. By appointing more examiners ? I have regarded it as better to have one man, or one set of men who are familiar with those banks.

By Mr. CHAPMAN :

Q. I suppose you have authority to appoint men to examine every piece of real estate on which every bank holds a mortgage in this State, but do you deem it expedient or wise to do so ?

A. We have not so regarded it ; it would take an array of men to do it.

By Senator ST. JOHN :

Q. You do not think it could possibly be necessary for you to examine every piece of property ?

A. It has been claimed that the examiner should examine every piece of property.

Q. Is not this a fact, that on the examination of mortgages in the bank your examiner or yourself look first at the mortgage and bonds to see whether they are properly drawn ; they are accompanied with an abstract of title ; then they are accompanied with a certificate or affidavit of some men who have appraised the value of that property ; don't you require that of all banks ?

A. Certainly of all, but it is claimed by some, as I said before, that



the bank department ought to examine every piece of real estate upon which the bank holds a mortgage, and ascertain its value, and all that sort of thing.

Q. But you do not believe it ?

A. No, I do not.

Q. Then the claim is of no consequence ?

A. It is very often made with persistency.

By Mr. CHAPMAN :

Q. In order to make these extended examinations it would very largely increase the expenses of supervision of the banks ?

A. Oh, yes ; there is one bank in Rochester that has got 3,200 mortgages scattered all over western New York ; for an examiner to go to each piece of property, 3,200 pieces of property, and get at the real value, it would take him three months or six months.

By Senator ST. JOHN :

Q. I want to know whether you think that is necessary, or whether you have exercised it, or have thought of exercising such a power ?

A. I never have thought it necessary.

Q. You have never exercised any such power ?

A. No, we have examined some pieces of property.

Q. You spoke of 3,200 mortgages held by one bank ?

A. Yes, sir.

Q. You would not think of going and examining every piece of property ?

A. No, but newspapers have claimed that I ought to, and the people have, some of them.

By Mr. CHAPMAN :

Q. You did not deem it wise or expedient to appoint examiners to examine every piece of property there was on which mortgages were held ?

A. You mean generally ?

Q. Yes, all these banks ?

A. No, sir.

Q. Your judgment was that one examiner, going around once in two years, visiting all these banks and getting a knowledge of their securities, and comparing subsequent examinations with prior examinations, would much more readily understand the condition of the bank and whether it was improving or not, than strangers to such prior examination would ?

A. That was my belief, I thought a man who had had experience who commenced on this work when the law was passed, and who knew the general history of the bank and its working, would be much more valuable to the superintendent in the department, to keep him posted, than a different lot of men who only occasionally went into a bank.

Q. Have you not found in practice that that was the case?

A. It is so, undoubtedly.

Q. Is it not true that that method of supervision actually makes a saving to the depositors?

A. I think so; I have no doubt of it.

Q. Beyond what it would be if you appointed others to make examinations?

A. I have no doubt of it.

Q. Mr. Reid, having gone through a bank at any time within two years, is much more capable of getting at the condition of the bank, and with a less examination, than a man who had not made an examination of the bank before?

A. Undoubtedly he would be; he keeps minutes of the examinations and has the printed report.

Q. And he could make an examination much more rapidly and cheaply?

A. Oh, yes.

Q. And that works for the interest of the depositors?

A. Yes, sir.

Q. Mr. Reid only examines in regard to savings banks, I suppose?

A. That is his specialty.

Q. You have other examiners for the other institutions?

A. He never has examined any State banks, I think; we have special examiners for those—experts; when we have occasion to examine a State bank we get an expert and send him out.

Q. Does the law require that you pay your examiner a salary?

A. Yes, sir.

Q. That is the law of 1875?

A. Yes, sir; the expense is collected from the bank.

By Senator ST. JOHN:

Q. It is collected from the banks now?

A. It is by a general assessment now; it is a different method; it all comes out of the depositors.

Mr. Mack requests that the examination in regard to the Trades' Savings Bank be kept open, and be continued at a future day in New York, and he gives the following list of witnesses whom he desires to examine in New York:

Samuel B. White, *Receiver*; A. M. Leslie, *President*; J. M. Freese, *Secretary*; George W. Reid, *Examiner*.

The committee after consultation decide that as to all the charges except those in regard to the Third Avenue Savings Bank, they will call for the proof referred to in the governor's message, and then such testimony as Mr. Ellis may have to give as an offset to those charges; and that under that ruling the examination in the case of the Trades' Savings Bank is now closed.

ABINGDON SQUARE SAVINGS BANK, NEW YORK CITY.

The following report of the examiner is put in evidence :

## ABINGDON SQUARE SAVINGS BANK, NEW YORK CITY.

[Examined November 4, 1875, by Geo. W. Reid.]

ASSETS.	Rate of Interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Bonds and mortgages.....	7	.....	.....	.....	\$116,620 00
Real estate bid in on foreclosure .....	.....	.....	.....	.....	7,307 97
Safe and fixtures.....	.....	.....	.....	.....	3,000 00
Cash in safe.....	.....	.....	.....	\$1,827 69	
Cash in Island City Bank .....	3	.....	.....	4,000 00	
Cash in Loaners' Bank .....	6	.....	.....	3,551 30	
Interest accrued.....	.....	.....	.....	.....	9,378 99
					4,140 00
LIABILITIES.					
Due depositors .....	.....	.....	.....	\$133,732 26	\$140,446 96
Interest accrued .....	.....	.....	.....	2,290 00	
					136,022 26
Surplus.....	.....	.....	.....	.....	\$4,424 70

*Annual income and charges thereon.*

INVESTMENTS, ETC.	Rate of interest.	Amount at par.	Revenue.	Totals.
<i>Income.</i>				
Bonds and mortgages.....	7	\$116,620 00	\$8,163 40	
Cash in bank.....	4	7,550 00	302 00	
Rent .....		.....	800 00	\$9,265 40
<i>Charges.</i>				
Interest to depositors.....	.....	.....	\$6,700 00	
Salaries.....	.....	.....	1,520 00	
Rent .....	.....	.....	800 00	
Internal revenue tax.....	.....	.....	150 00	
Other taxes.....	.....	.....	110 00	
All other charges.....	.....	.....	650 00	9,930 00
Deficiency of income .....	.....	.....	.....	\$664 60

The officers have recently exchanged real estate bid in on foreclosure in Brooklyn, for other property there, which has been sold at a profit, purchase-money mortgages being taken in payment; and the lots have been built on. The transaction was apparently done in good faith, though it was in violation of the charter. It is said that all loans are well secured. The apparent surplus is \$4,424. To increase this security to depositors, trustees have given their notes to the president for \$10,000.

*De Witt C. Ellis*, being duly sworn, testified:

By Mr. CHAPMAN:

Q. [Showing paper to witness.] Is this the original report of the examination of Mr. Reid, of November 4th, 1875, of the Abingdon Square Savings Bank?

A. Yes, sir; that is the document.

Q. By that document it appears from that examination that the bank had at that time a surplus of \$4,424.70 as assets over liabilities?

A. Yes, sir.

Q. When was that filed in the department?

A. December 2d, 1875.

Q. Showing a surplus, had you any power to put the company in the hands of a receiver on that examination?

A. I think not.

Q. One of the points made in the charge in that case is as to the exchange of real estate being in violation of the charter; will you tell what there was about that?

A. The report showed that the bank came into possession of some real estate by foreclosure of a mortgage on which they had loaned.

Q. That is, real estate bid in by the bank upon foreclosure?

A. Yes, sir.

Q. Owned by the bank?

A. Yes, sir; and that they exchanged it for other property that they regarded more desirable for the bank, and had sold it when this report was made.

Q. Prior to this examination?

A. Prior to this examination.

Q. Sold it at a profit?

A. It is so reported here.

By Senator WELLMAN:

Q. They first exchanged this real estate, which they bid in upon a foreclosure for other real estate?

A. Yes, sir.

By Mr. CHAPMAN:

Q. And sold the other real estate at a profit for the depositors?

A. Yes, sir; prior to this examination; when the examination was made the whole transaction was closed up, as reported.

Q. And the second piece of real estate which they thus obtained they had sold previous to this examination at a profit, and had got in lieu thereof purchase-money mortgages, which were good?

A. It is so reported there.

Q. So that by the transaction the bank had got good purchase-money mortgages in place of a piece of real estate which they had bid in on foreclosure for the benefit of their depositors?

A. It so appears by the report.

Q. And all this had been done prior to this examination by Mr. Reid?

A. Yes, sir; without my knowledge.

Q. Your attention being called to the question as to whether they had the right to make this exchange, did you examine the question?

A. I did.

Q. How did it appear to you as to whether they had violated the charter or not, at that time?

A. I made up my mind that it was not a violation of the spirit of the law; that is the opinion I had at that time.

Q. In February, 1876, did the bank report their condition as of the 1st of January, 1876?

A. They did, and this is the report. [Producing paper.]

Q. Showing what surplus on January 1, 1876?

A. \$7,207.58.

By Senator WELLMAN:

Q. That was the statement of the bank itself?

A. Yes, sir; the sworn report of the bank.

By Mr. CHAPMAN:

Q. You say it appeared to you at the time, from an examination of the law, that they had a right to make this exchange?

A. It appeared to me that it was not a violation of the law.

Q. Or of the charter?

A. Or the charter.

Q. Did the same question come up for you to investigate subsequently, in connection with some other bank?

A. It did, in 1876.

Q. Did you re-examine the question?

A. I did.

Q. Tell what you did?

A. I looked the law up again, looked it over, and went into the attorney-general's office with the law in my hand, and submitted the proposition to the attorney-general, or the deputy; I think he was the deputy at that time; and stated that the question came to me for an opinion, and I had looked the law up and I thought I would take his opinion and establish the rule as to what he regarded the law of the case; he examined it, and at first said he thought they had a right to do it; I suggested to him that I had thought so, but I could see that

it might let down the bar to the banks engaging in real estate speculation; that while the law prohibited banks from speculating and doing business except as provided in their charter, I had thought that a bank holding real estate legally might exchange it in the interest of the bank for another piece of property if they regarded it more feasible, and he said he thought the same thing; but he thought it better to fix the rule on the safe side, and prevent any speculating enterprises on the part of banks that might start legitimately enough, and end by trading in real estate; so I wrote the opinion to this man who wanted to know about it, that the attorney-general held that he had no right to make the exchange, and that disposed of the question.

Q. That was the final opinion of the attorney-general?

A. Yes, sir; a verbal opinion; he did not have a written opinion.

Q. And that has been the rule of the department since?

A. Yes, sir.

Q. Do you recollect of being on your summer vacation in July or August?

A. I think I went away about the 1st of August; I might have been out of town in July.

Q. Down to July, 1876, had your attention been called to any deficiency, or had there been any thing to lead you to think there was a deficiency in the bank?

A. No, sir; I have no recollection of hearing any thing about the bank.

Q. And the bank was reported to the attorney-general by the deputy, Mr. Lamb?

A. Yes, sir.

By Senator ST. JOHN:

Q. Were there any other special examinations?

A. There was one on which the bank was closed.

By Mr. CHAPMAN:

Q. I will ask you whether it did appear to you that the bank had violated its charter or law, that required any action on your part?

A. I said before I thought not at that time; that was my opinion.

By Senator ST. JOHN:

Q. You regarded this all the while up to July as a solvent, good institution, able to pay its debts?

A. It was so reported; yes, I did.

Q. It did not turn out to be so, did it?

A. It turned out that we closed it up.



Q. Does it pay dollar for dollar, or is there a loss on it?

A. I cannot tell you any thing about what it paid.

Q. You have no knowledge of what the depositors got?

A. No, sir; it never has been settled up, I guess; after a receiver takes possession of a bank I have no further jurisdiction or supervision of it; what the receiver does I know nothing about only from hearsay.

Q. Don't you take interest enough in it to know how these depositors come out in the way of dividends? do you know whether this bank has ever made a dividend?

A. I don't know any thing about it; of course it is in the hands of the court, and I have nothing further to do with it.

By Mr. CHAPMAN :

Q. The receiver is an officer of the court, isn't he?

A. Yes, sir.

Q. Subject to the court's order?

A. Yes, sir; I suppose they would not hold me responsible for what the receiver did.

Q. If times had turned, and instead of constantly growing harder they had gone the other way, do you know of any reason why this bank should not have succeeded?

A. I do not, on those reports, if they are correct.

Q. Well, do you know of any?

A. Not to my knowledge.

Q. Do you know of any — any way — any reason why the bank should not have succeeded?

A. No, I do not.

*Henry L. Lamb, a witness, being duly sworn, testifies:*

By Mr. CHAPMAN :

Q. On July 19th, did you receive this letter from Mr. Reid showing that he had made an examination of the Abingdon Square Savings Bank [handing witness a paper]?

A. Yes, sir; the letter is dated July 19th, 1876, and I received it, I suppose, the next day, the 20th; the filing does not show, but that is the presumption; it is a letter concerning the Abingdon Square Savings Bank, embracing a statement of its condition on the first day of July.

Q. Showing an apparent deficiency of how much?

A. An apparent deficiency, without interest either way, of \$7,125.39.

The letter is read in evidence as follows :

NEW YORK, *July 19th*, 1876.*Hon. D. C. Ellis:*

Dear sir—In January, 1874, the secretary of the Abingdon Square Savings Bank, in order to make a better show, entered a bogus deposit of \$10,000, and counted it as so much cash on hand; when I discovered it a short time afterward, I remonstrated, and he promised not to do so again; the same thing was done last January; the attorney, Edgar F. Brown, put in his check for \$5,000; his brother, D. S. Brown, \$4,500, and the clerk, \$5,000; the secretary is absent from the city at present, and I find the clerk put in his check for \$9,800, and counted it as cash for the July report; he has also entered real estate as more than \$60,000, on which they owe a mortgage of \$5,000; these figures are not on the books, but furnished by the attorney; the true figures, as shown by their monthly statement, are as follows:

*July 1st.*

Bonds and mortgages .....	\$43,800 00	
Furniture and fixtures .....	4,431 70	
Real estate bid in .....	38,411 50	
Cash less check .....	\$26,079 91	
	9,800 00	
	<hr/>	16,279 91
Apparent deficiency without interest either way .....		7,125 39
Total .....		<hr/> <hr/> \$110,048 50
Due depositors .....	\$95,048 50	
Less .....	9,800 00	
	<hr/>	
Loan for \$15,000 .....		<hr/> <hr/> \$110,048 50

This loan is secured by trustees' notes and assigned bond and mortgage. The attorney is out of the city, and as soon as he returns next week, I will see him. I am going to Perth Amboy this afternoon. Will return Monday.

Yours, truly,  
GEORGE W. REID.

Q. Had you or the department, to your knowledge, any knowledge or information as to there having been a previous bogus deposit up to the time you got this letter?

A. I have no recollection of Mr. Reid ever communicating that fact to the department; I judged that he admonished them personally, and did not report; I don't know that he ever reported it.

Q. You never heard of it?

A. No, sir.

Q. Until this letter came?

A. Until the letter came.

Q. After the receipt of that letter, did you then communicate to the attorney-general?

A. I did subsequently; I cannot tell whether I did it the next day or two; I don't recollect about that.

Q. Mr. Ellis was out of town at this time, was he?

A. He was at the time I addressed this letter to the attorney-general.

Q. And on the 29th of July did you address the letter, a copy of which I hold in my hand, to the attorney-general?

A. I did.

The letter last referred to is put in evidence, and is as follows:

*July 29th, 1876.*

*Hon. Charles S. Fairchild, Attorney-General:*

Sir—From the statement made by the examiner to the superintendent, it appears that there is a deficiency of assets in the Abingdon Square Savings Bank, in the city of New York, exceeding \$7,000. It also appears that the actual condition of the bank was concealed in the report for July 1, 1876, and for January 1, 1876, by the deposit of checks by officers which were drawn by themselves, and counted as cash on hand. As the management of this savings bank is obviously unsafe and unauthorized, and as there is no ground for the belief that the condition of the bank will improve if it continues to do business, pursuant to section 44 of chapter 371, laws of 1875, I recommend that you take legal steps to close the bank, and dissolve the said corporation. I inclose herewith the statement of the examiner.

Yours, truly,

HENRY L. LAMB.

*Deputy Superintendent.*

*De Witt C. Ellis, recalled:*

By Senator ST. JOHN:

Q. Was this note of the trustees ever collected?

A. I don't know any thing about it.

Q. It was left in the bank when it went into the hands of the receiver?

A. I don't know that.

By Mr. CHAPMAN:

Q. In this report of the examiner, in December, 1875, allusion is

made to the trustees' notes amounting to \$10,000 ; those were not reckoned by the examiner as assets in that report, were they ?

A. No, sir.

*Henry L. Lamb*, recalled.

By Mr. CHAPMAN :

Q. So far as you know, up to the time of the receipt of this letter, the bank department had no knowledge of any thing to impugn the correctness of the returns ?

A. Yes, sir ; I think we had a letter of July 6th, showing a deficiency of about \$6,000.

Q. Prior to that, I will repeat the question, if the bank department, to your knowledge or information, which would tend to impugn the correctness of their returns to the department ?

A. No, sir.

By Senator ST. JOHN :

Q. From whom is the letter of July 6th ?

A. Mr. Reid.

By Mr. CHAPMAN :

Q. Was there some negotiation between you and the officers of the bank in regard to their making up this deficiency ?

A. Yes, sir.

Q. That may account for the eight or nine days' delay ?

A. I think the negotiation was subsequent to my letter.

Q. Subsequent to your reporting to the attorney-general ?

A. Yes, sir ; I would not be sure about that, though.

By Senator ST. JOHN :

Q. Have you ever examined any of these banks yourself personally ?

A. I have accompanied and assisted Mr. Reid in the examination of some three or four savings banks ; the Emigrant Industrial, and the Citizens, and the Union Dime ; I believe that is all of the savings banks that I have assisted in.

Q. Have you ever in these examinations, where you had any doubt about matters, put the officers under oath, and examined them under oath as to their papers ?

A. In these three banks they were perfectly solvent, with a big surplus, and there was no occasion for doing any thing of that kind ; I did accompany Mr. Reid and Mr. Aldrich on the examination of the Union Trust Company, and the officers were sworn as to certain securities.

Q. Has Mr. Reid ever made any examinations under oath of the officers of these insolvent banks?

A. Not to my knowledge; I have never examined any of these banks that have since failed.

Q. I suppose if you had any suspicion you would put them under oath?

A. I don't know; if they would make a false statement in their report, they would perjure themselves if they were sworn.

*S. W. Swaney*, a witness, being duly sworn, testifies:

By Mr. CHAPMAN :

Q. Are you chief clerk in the attorney-general's office?

A. I am, sir.

Q. How long have you been such?

A. Since the 1st of January, 1874.

Q. Have you in your hands the register of the attorney-general's office?

A. Yes, sir.

Q. Will you turn to the record in regard to the Abingdon Square Savings Bank?

A. Page 186 of the register.

Q. Have you there a record of an action having been commenced on the application of the superintendent of the bank department, or the deputy, to throw the bank into the hands of a receiver?

A. I have a record here showing that an action was commenced; I don't know whether the recommendation was from the deputy or from the superintendent.

Q. It came from the bank department?

A. It came from the bank department.

Q. What is the date that you commenced the action?

A. It was served in 1876, August 10th.

Q. What was?

A. Summons and complaint, affidavit and order to show cause; it was undoubtedly mailed the day before.

Q. Have you any further record there of the proceedings in the case?

A. I have not, for the simple reason that I took my vacation along about that time, somewhere, and the remaining proceedings in the case were obtained when I was away; I never saw the papers; I know, though, that Frank M. Thompson, of New York city, was appointed receiver, subsequently.

Q. Have you the date of the appointment of the receiver?

A. I have no record of it.

Q. Have you any further record than what you have given?

A. No, sir.

Adjourned to *May* 10, 1877, 10 A. M.

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ALBANY, N. Y., *May* 10, 1877.

The committee met at 10 A. M., pursuant to adjournment.

Present — Senators COLEMAN (chairman), WELLMAN and ST. JOHN.

#### BANK OF LANSINGBURGH.

The following report by the superintendent, made in 1875, is put in evidence:

# 41.—BANK OF LANSINGBURGH—LANSINGBURGH.

HORACE W. DAY, *President.*

(Organized 1869.

ALEXANDER WALSH, *Cashier.*

RESOURCES.	Statement of condition Dec. 26, 1874.	Statement of condition March 27, 1875.	Statement of condition June 12, 1875.	Statement of condition Sept. 18, 1875.
Loans and discounts less due from directors and brokers.....	\$477,870	\$397,767	\$379,950	\$311,784
Overdrafts.....	1,198	845	1,307	1,156
Due from banks.....	38,883	86,277	10,285	383,704
Due from directors.....	5,651	7,067	5,594	6,130
Due from brokers.....	7,302	7,254	.....	.....
Real estate.....	11,000	11,000	11,000	11,000
Specie.....	520	516	447	319
Cash items.....	3,816	3,691	10,290	6,680
Stocks and bonds.....	608,093	632,187	796,492	449,608
Bonds and mortgages.....	14,300	19,600	19,500	19,100
Bills of solvent banks and U. S. demand and legal tender notes.....	20,180	22,081	10,971	16,851
Loss and expense account.....	2,088	25	20,145	1,880
Assets not included in either of the above heads.....	1,000	.....	.....	*500
Add for cents.....	6	6	4	3
Total resources.....	\$1,191,907	\$1,188,316	\$1,265,985	\$1,208,715

\*Suspense account.

## 41.—BANK OF LANSINGBURGH — (Continued.)

LIABILITIES.	Statement of condition Dec. 25, 1874.	Statement of condition March 27, 1875.	Statement of condition June 12, 1875.	Statement of condition Sept. 18, 1875.
Capital.....	\$150,000	\$150,000	\$150,000	\$150,000
Surplus fund.....	.....	.....	150,000	150,000
Profits.....	189,277	176,611	53,229	19,825
Due banks.....	882	6,052	65,428	9,248
Due individuals and corporations other than banks and depositors.	.....	.....	.....	.....
Due treasurer of the State of New York.....	.....	.....	.....	.....
Due depositors on demand.....	851,543	855,652	846,710	879,642
Amount due not included in either of the above heads.....	203	.....	616	.....
Add for cents.....	2	1	2	.....
Total liabilities.....	\$1,191,907	\$1,188,316	\$1,265,985	\$1,208,715



[The following report by the superintendent, made in 1876, is put in evidence.]

BANK OF LANSINGBURGH — LANSINGBURGH.

HORACE W. DAY, *President.*

(Organized 1869.)

ALEXANDER WALSH, *Cashier.*

RESOURCES.	Statement of condition Dec. 18, 1876.	Statement of condition March 18, 1876.	Statement of condition June 24, 1876.	Statement of condition Sept. 23, 1876.
Loans and discounts less due from directors.....	\$291,515	\$308,611	\$394,049	\$550,682
Due from directors.....	5,298	5,857	7,394	6,174
Overdrafts .....	2,261	1,303	1,329	1,561
Due from trust companies, State, national and private banks and brokers .....	112,801	354,312	42,681	58,596
Real estate .....	17,000	20,273	20,311	19,944
Specie.....	227	219	1,537	902
Bonds and mortgages.....	23,681	20,681	20,681	20,681
Stocks .....	719,694	495,046	755,396	562,433
United States legal tender notes and circulating notes of national banks.....	34,188	10,271	11,423	22,085
Cash items.....	8,154	5,128	8,688	1,167
Loss and expense account.....	2,361	.....	2,448	4,534
Assets not included in either of the above heads.....	.....	2,000	.....	.....
Add for cents.....	4	3	3	4
Total resources .....	\$1,217,184	\$1,223,704	\$1,265,940	\$1,248,763

## BANK OF LANSINGBURGH — (Continued.)

LIABILITIES.	Statement of condition Dec. 18, 1875.	Statement of condition March 18, 1876.	Statement of condition June 24, 1876.	Statement of condition Sept. 23, 1876.
Capital .....	\$150,000	\$150,000	\$150,000	\$150,000
Surplus fund .....	150,000	150,000	150,000	150,000
Undivided profits .....	18,803	17,137	5,683	1,762
Circulation .....	.....	.....	.....	.....
Due depositors on demand .....	895,689	903,711	955,493	941,667
Due to trust companies, State, national and private banks and brokers .....	2,619	2,748	4,763	5,333
Due individuals and corporations other than banks and de- positors .....	.....	.....	.....	.....
Due treasurer of the State of New York .....	.....	.....	.....	.....
Amount due not included in either of the above heads .....	72	106	.....	.....
Add for cents .....	1	2	1	1
Total liabilities .....	\$1,217,184	\$1,223,704	\$1,265,940	\$1,248,763

*Henry L. Lamb*, being duly sworn, testifies:

The annual report of the superintendent to the legislature embraces an abstract of the quarterly report of every discount bank in the State; the report to the legislature for the year 1877, that is the one made to this present legislature, does not embrace the last quarterly report made by the banks, because that report is made in December, and the report to the legislature embraces the fiscal year from October to October; there is one report on file in the office which has not been transmitted yet to the legislature for that reason.

Mr. CHAPMAN — But that I have here [producing a paper] ?

The WITNESS — I suppose you have; it was made in December [taking the paper], this is the last report that the bank made, on the 23d day of December, 1876.

The following is a copy of the report last referred to:

### QUARTERLY REPORT

OF THE BANK OF LANSINGBURGH ON THE MORNING OF SATURDAY  
THE 23d DAY OF DECEMBER, 1876.

#### RESOURCES.

Loans and discounts: Loans.....	\$60,000 00	
Discounts .....	523,330 49	
	<hr/>	\$583,330 49
Due from directors of the bank, included		
in loans and discounts.....	\$5,987 92	
Over drafts.....		1,481 15
Due from trust companies, State and		
national banks.....		57,323 36
Banking house and lot.....	\$10,000 00	
Other real estate .....	9,949 82	
	<hr/>	19,949 82
Specie .....		756 85
Bonds and mortgages.....		20,681 50
Stocks, N. Y. S. \$5,000.....		
Other stocks and bonds, viz., as per schedules on back of		
report: Stocks, \$373,685.93; \$178,227.33, bonds...		556,913 31
U. S. Legal tender notes and circulating notes of national		
banks .....		18,414 00
Cash items, viz.: Bills and checks in course of exchange,		
\$1,003.02; fractional currency, \$1,267.30; coupons,		
\$175.00; checks and notes, \$288.20; revenue stamps,		
\$39.00 .....		2,772 52
Current expenses.....		2,202 06
	<hr/>	
Total.....		<u>\$1,263,825 06</u>

## LIABILITIES.

Capital paid in cash .....	\$150,000 00
Surplus fund .....	140,000 00
Undivided profits .....	6,785 68
Due depositors on demand ..	963,563 63
Due to trust companies, State and national banks.....	3,164 15
Unpaid dividends .....	311 60
Total .....	<u>\$1,263,825 06</u>

On the back of the report is the following schedule:

## SCHEDULES REFERRED TO IN WITHIN REPORT:

*Stocks.*

Chicago and Rock Island R. R. Co. ....	\$159,562 50
Central R. R. Co. of N. J. ....	110,123 43
Michigan Central R. R. Co. ....	70,000 00
Lake Shore and Michigan Central R. R. Co. ....	34,000 00
	<u>\$373,685 93</u>

*Bonds.*

District of Columbia 3-65s .....	178,227 38
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The above report purports to have been sworn to by H. W. Day, president, and A. Walsh, cashier, on the 27th of December, 1876, before M. L. Fancher, notary public, Lansingburgh, New York.

By the CHAIRMAN:

Q. I will inquire of you whether the law requires the superintendent to make periodical examinations of banks of discount and deposit?

A. The law does not require him, or authorize him to make stated periodical examinations of the discount banks.

Q. Has he authority to make any examinations at any time whenever he thinks proper?

A. He has authority for examining a discount bank if he has reason to believe that their reports are untrue, or that the capital of the bank is impaired.

Q. Were there any such reports or statements made to the department within your knowledge, as to irregularity in regard to the management of the business of the bank of Lansingburgh, or unauthorized management or investments?

A. I have no knowledge that any information ever came to the de-

partment from any source that the capital of the bank was impaired, or that it was doing any thing that it might not lawfully do, until, I think, the 13th day of March, this year.

Q. What came to the department then?

A. The president and the cashier of the bank, stating that their capital was impaired.

Q. Then what did the department do?

A. They made a requisition to make good the impaired capital — the only thing it could do.

Q. And a receiver was appointed?

A. And a receiver was appointed upon the application of the directors of the bank, I believe, at Troy.

By Mr. CHAPMAN:

Q. On the 17th of March you made that requisition [handing witness a paper]?

A. On the 17th the superintendent addressed a letter to the president.

By Senator ST. JOHN:

Q. Did they represent it as insolvent at that time?

A. Yes, sir.

By Mr. CHAPMAN:

Q. Or did they represent that the capital was impaired?

A. They represented that they were insolvent; they admitted that fact on the 13th of March.

Q. This year?

A. This year; and the superintendent had no power to do any act except require them to make the impaired capital good.

Q. And that he did do?

A. That he did do; he has no power to close a discount bank.

By the CHAIRMAN:

Q. What sort of securities is the bank authorized to take, or on what securities are loans authorized?

A. The list of investments is in the law; I would not undertake to enumerate them; I have examined the law at different times; I never could find any prohibition in respect to the purchase of stocks by a bank whether they were railroad stocks or other stocks.

Q. You do not find any law that prohibits it?

A. No, sir; I never have found any prohibition.

Q. You were aware from the reports of this bank that they did hold stocks of railroads as security, or had invested in those stocks?

A. Mr. Walsh, once, in the department said, that they had purchased some railroad stock ; there is no law which requires the bank to report what stocks they do hold.

Q. How are the reports made ; do they report that they hold railroad stocks ?

A. They report that they own so many stocks, and that is all that the law requires.

Q. Here is a schedule ?

A. I know there is, but there is no law for it at all, and it is a precaution that has been taken in the department in respect to discount banks within the last two years, to make them file on the back of the report a schedule of stocks when they report that they have got them.

Q. That is a rule that is made in the department ?

A. That is a rule that is made in the office.

By Mr. CHAPMAN :

Q. A precautionary rule adopted in the department under Mr. Ellis administration for the first time ?

A. So far as I know ; it was applied in the first place to the Manufacturers and Builders' Bank in New York, and resulted in its being closed up ; the law in respect to discount banks, the State law, is very different, I believe, from the national law in respect to national banks in this regard.

By the CHAIRMAN :

Q. Did you examine this report of the 23d of December, when it was received by the department on the 29th of December ?

A. No, sir ; not particularly.

Q. At any time afterward ?

A. After the committee, the president and the cashier came to the department, I called for the report that day to look at it ; perhaps I should say that, in the distribution of work in the office it is not a duty of mine to examine these reports, but of another officer, and if he finds any thing unusual or any thing which he thinks requires attention in any way, he reports that fact either to the superintendent or myself for action ; the work of the office has to be distributed in some way, and each man does his work in the first instance.

By Mr. CHAPMAN :

Q. You live in Troy ?

A. I do not.

Q. Will you please tell us where you do live ?

A. I live in West Troy, in Albany county.

Q. About how far from Lansingburgh?

A. It is perhaps three miles or thereabouts.

Q. You are familiar with Lansingburgh and with this bank?

A. I am more familiar with it in my official relations than in any other way; I seldom go to Lansingburgh.

Q. Are you acquainted with some of the prominent business men of Lansingburgh?

A. Yes, sir; I am acquainted with some citizens of Lansingburgh, who are active business men there.

Q. During the time of Mr. Ellis' superintendency of the bank department was there any thing which came to your knowledge which awakened any suspicion in regard to the bank of Lansingburgh?

A. No suspicion; no intimation that the management of the bank was illegal or irregular, or that there was any impairment of its resources.

Q. Or any violation of law, or any thing which would authorize the department to act?

A. No, sir; we never had any information of any thing of that kind.

Q. I call your attention to the reports of the condition of the bank of Lansingburgh in 1875; give the surplus of the bank as returned to the department each quarter; was there any surplus the first of January, 1875, if so, how much?

A. The first report made in 1875 was for March 27, and the profits of the bank were then reported \$167,611.

Q. That indicates surplus?

A. Perhaps I had better explain that; when I reach the next quarter the surplus and profits will be divided; the reason for that is that we changed our blanks during the year 1875, separating items, and, as we thought, making the report a little more searching than it had been formerly, and the blanks for this date that I speak of, March 27, did not have a head "Surplus" on it at all, so it was simply "Profits."

By the CHAIRMAN:

Q. Profits included surplus and discount and every thing?

A. It included what banks ordinarily call "profits undivided," or "profits" and surplus, if they had one.

By Senator ST. JOHN:

Q. How much is that?

A. \$176,611; June 12, 1875, the next quarter, they reported surplus fund, \$150,000, profits, \$53,229; two separate items; the next quarter, September 18, 1875, surplus fund, \$150,000; profits, \$12,825.

By the CHAIRMAN:

Q. The profits are less there?

A. They had paid their dividend the first of July.

By Mr. CHAPMAN :

Q. I now call your attention to the next year ?

A. December 18, 1875, is the next.

Q. That corresponds to the first of January, substantially ?

A. Yes, sir; surplus fund, \$150,000; undivided profits, \$18,803; the next quarter, March 18, 1876, surplus fund, \$150,000; profits, \$17-137; June 24, 1876, surplus, \$150,000; profits, \$5,683; September 23, 1876, surplus, \$150,000; profits, \$1,762; the last report is for the 23d of December, 1876; surplus, \$140,000; profits, \$6,785.68.

Q. What was the capital of that bank ?

A. \$150,000.

Q. So that the bank had, down to the very last report, a surplus fund nearly equal to the capital — surplus fund and profits ?

A. Very nearly; I can tell why this undivided profit kept shrinking.

Q. Well, tell ?

A. They bought Michigan Central and Lake Shore stock when they were paying dividends, and the road stopped paying dividends; their income was thereby reduced, and the accumulated profits that they reported once as \$53,000, were used in dividends; Michigan Central and Lake shore were good dividend stocks four or five years ago.

Q. They had been holding these for some time ?

A. Those two.

Q. The New Jersey Central they had been holding for some time, had they not ?

A. Perhaps 18 months before they failed.

Q. At the time they purchased them New Jersey Central was up ?

A. New Jersey Central was above par slightly when they made their first purchase, and had been previously paying 10 per cent dividend, constantly; I will say, however, that they never, as far as I know, have asked any advice of the department whether they might invest in these stocks lawfully, or whether they had best do it.

Q. Do you know of any thing in the law which would prevent them investing in these stocks ?

A. No, sir; I never found any prohibition, although I looked for it.

By Senator ST. JOHN :

Q. Do you regard this kind of purchase of stock, speculating in stocks by a bank, as being what is regarded as legitimate banking business ?

A. No, sir; but our guide in the department is the law, as far as we can follow it, and the bank had its capital and its large surplus too, for security.



By Mr. CHAPMAN :

Q. So that the depositors had for their protection over \$300,000, or about \$300,000 down to the time of the last report, its whole capital and this surplus ?

A. Yes, sir; it was \$287,000, very nearly, at the time the report was made in December.

By Senator ST. JOHN :

Q. I should like to inquire how this large surplus is made up ; is it not made up by estimating all these railroad stocks at a very high price ?

A. Their railroad stocks are put in on the other side of the ledger as resources, and this surplus fund was cash.

Q. This surplus fund is cash ?

A. Yes, sir.

By Senator WELLMAN :

Q. The surplus fund, I suppose, consists of whatever it happens to be invested in ?

A. It was put in once in the undivided profits.

By Senator ST. JOHN :

Q. You do not mean that it is cash on hand — money ; no bank would keep \$150,000 of money on hand ?

The CHAIRMAN — This bank had nearly that sum on hand when it failed.

The WITNESS — About \$187,000 I think.

Senator WELLMAN — Of course the surplus fund is put in as one of the items of the liabilities, and the opposite side, the resources show what are the liabilities ?

The WITNESS — I understood Senator St. John to ask if this surplus was not made by putting an extra price on.

Senator ST. JOHN — I mean to say this: in making up this surplus these stocks were estimated, and must have been, at some price or other, as it is shown there ; were they estimated at a high price or a low price ? what were they called worth in the statement ?

The WITNESS — They put them in at cost to them.

By Mr. CHAPMAN :

Q. What do you mean by "legitimate;" you used the expression "legitimate;" I don't know but you mean it in the sense of illegal?

A. I would not use it in that sense, because I stated I could find in the law no prohibition to their making such investments.

Q. What sense do you use the word "legitimate," in?

A. Its general signification, that in doing a banking business it is not the right kind of securities to invest money in; it is not a sound way of doing business.

Q. But the fact of their investing money in those things does not give, under the law, the department any right to act?

A. No, sir; the officers of this bank make investments of their funds, we will say, in railroad stocks; as long as the capital of the bank is not impaired by any loss, no depositor is in danger; there is the capital for the guaranty fund, and the superintendent of the bank department can take no action until he has reason to believe that the capital of the bank is impaired; I am speaking now of this particular matter of investments; as long as the capital is intact I don't know that the superintendent can interfere with the directors of the bank; when it appears to him that the capital is impaired he can only require the bank, or the officers of the bank, to make the impairment good within 90 days from the date of the requisition; if they fail to do that, then there are other proceedings.

Q. If they fail to do that, then they can report them to the attorney-general?

A. Yes, sir; and we cannot ask for a receiver or report to the attorney-general or any thing until we make a requisition to make good the capital.

Q. If they are doing any act which is in violation of their charter, and that comes to the knowledge of the superintendent —

A. Then he can report them.

Q. So that the department acted as soon as it appeared to the department that it had any power to act in this case?

A. Yes, or had any need or cause for acting.

Q. This bank, after the requisition was made, was put in the hands of a receiver, was it?

A. Yes, sir; on the motion of the officers of the banks.

Q. And before the 90 days had expired, and before you had any authority to act at all in the department?

A. I think they did it in two days after the requisition was made.

#### NEW YORK STATE LOAN AND TRUST COMPANY.

The following report by the examiner is put in evidence:

# NEW YORK STATE LOAN AND TRUST COMPANY.

[Examined February 5 and 6, 1875, by Geo. W. Reid, Wm. F. Aldrich and W. S. Paine.]

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ASSETS.	Rate of interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
U. S. bonds, 10-40's.....	5 gold.	\$200,000 00	117	\$234,000 00	\$370,250 00
Chesapeake and Ohio R. R., 1st mortgage...	6 gold.	125,000 00	45	56,250 00	
New Orleans, Mobile and Texas R. R., 1st mortgage .....	8 cur'y	200,000 00	20	40,000 00	
Milwaukee, Green Bay and Manatawa mortg'e,	7 gold.	80,000 00	50	40,000 00	939,570 72
Loans, temporary.....	.....	.....	.....	.....	379,792 45
Bills purchased.....	.....	.....	.....	.....	
Cash in vault .....	.....	.....	.....	.....	
Cash in Fourth National Bank.....	4	.....	.....	\$3,207 76	238,238 50
Cash in Continental National Bank.....	3	.....	.....	176,432 47	
Cash in Nassau Bank .....	.....	.....	.....	48,500 00	
Cash in German American Bank .....	.....	.....	.....	10,000 00	1,500 00
Cash in Central National Bank.....	.....	.....	.....	73 39	
.....	.....	.....	.....	24 88	
Furniture and fixtures .....	.....	.....	.....	.....	8,560 00
Interest accrued on loans.....	.....	.....	.....	.....	
Interest accrued on banks .....	.....	.....	.....	\$7,560 00	
.....	.....	.....	.....	1,000 00	

## NEW YORK STATE LOAN AND TRUST COMPANY — (Continued).

ASSETS.	Rate of interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Commissions accrued.....	.....	.....	.....	.....	\$15,000 00
Deficiency.....	.....	.....	.....	.....	268,419 14
					\$2,221,330 81
LIABILITIES.					
Capital.....	.....	.....	.....	\$1,000,000 00	
Depositors.....	.....	.....	.....	1,213,875 81	
Dividend due.....	.....	.....	.....	80 00	
Interests accrued on deposits.....	.....	.....	.....	2,000 00	
Taxes accrued.....	.....	.....	.....	1,500 00	
Rent accrued.....	.....	.....	.....	1,875 00	
Rebate on bills purchased.....	.....	.....	.....	2,000 00	
					2,221,330 81

The attempt to obtain large interest has resulted disastrously for the company, one-fourth of the capital is lost. The stock is apparently worth about seventy-three per cent of par. About six hundred shares of the stock have not been paid for, yet loans have been made on it at two-thirds or three-fourths of the par value. There is a disposition now to do a legitimate business.

*D. C. Ellis*, being duly sworn, testifies as follows :

By Mr. CHAPMAN :

Q. This New York State Loan and Trust Company only came under your supervision by the law of 1874 ?

A. Yes, sir.

Q. Of that class of companies existing, about how many were brought under your supervision by that law ?

A. Some dozen or fifteen in the State.

Q. And you went to work getting up blanks and organizing in connection with the examination of those companies and the reports which were required by the law of 1874 ?

A. Yes, sir.

Q. You had no precedent ?

A. No, sir.

Q. Nothing to guide you except the language of the law itself ?

A. That is all.

Q. This examination was reported to you in February, 1875, the one that has been read in evidence ?

A. It was reported the date that appears there.

Q. What was the capital stock of the company ?

A. A million dollars ; that is, authorized ; that was the limit ; they had power to commence business on \$150,000 paid in.

Q. On this examination it appeared to you that the stock was all paid in except about 600 shares ?

A. So reported.

Q. By your examiner ?

A. Yes, sir.

Q. Were those \$100 a share ?

A. Yes, sir.

Q. The charter was granted in May, 1870, was it not ?

A. Yes, sir.

Q. A special charter ?

A. A special charter.

Q. By the charter the company was authorized to commence business when \$300,000 had been actually subscribed and \$150,000 paid in in cash ?

A. That is the terms in the charter.

Q. In regard to the effect of these 600 shares of stock not having been paid in or paid for ?

A. The effect in regard to stockholders ?

Q. The effect in regard to depositors, contractors, or persons dealing with the bank ?

A. By the terms of the charter, the stockholders are personally

liable for all debts of the corporation until such time as the stock is fully paid up; it is so by the terms of the charter.

Q. Did you read this section: "The stockholders of the company incorporated under this act shall be severally and individually liable to the creditors of the company in which they are stockholders, to an amount equal to the amount of stock held by them respectively, for all debts and contracts made by such company until the whole amount of capital stock fixed or limited by such company shall have been paid in," etc. The stock, I see by this report of Mr. Reid, is apparently worth about 73 per cent of par?

A. That is the way he reported it.

Q. And that one-quarter of the capital stock is lost; that indicated insolvency—or simply an impairment of capital?

A. An impairment of capital, only.

Q. So that on that examination the company was something like \$700,000 from insolvency?

A. Yes, sir; \$750,000.

Q. I notice in the report here the remark that there is a disposition now to do a legitimate business; did you have a conversation with Mr. Reid in regard to what he meant by the word "legitimate"?

A. Yes, sir; I did; when the report came—this was, of course, the first report that we ever received from this corporation; this is the first examination that ever was made.

Q. The first that had been required by law?

A. Yes, sir; the first required by law, and the first one authorized; I read his report over and noticed the assets and liabilities and phraseology of his report, and the words "legitimate business;" I turned to the session laws and took down the charter to examine it, read it through carefully, and I saw by the terms of the charter that this corporation had power to do any thing and every thing; it is a very peculiar charter, and I could not see by his report where they had not done a legitimate business under the law; and I asked Mr. Reid what he meant by the word "legitimate," whether he thought they had violated the law in any way; he said no, but his idea was—I don't know about using that word, but what he meant was that they proposed to do a more conservative business, not to take so much risk, not try to make so much money; that is what he meant by the term "legitimate."

Q. So that there was nothing that appeared to you to indicate that there had been any violation of the charter, or of law?

A. I couldn't see any thing; I read the charter over in perfect amazement, and I did not see very well how they could violate it; that is, so far as their investments and loans and discounts were concerned.

Q. Did it appear to you that it was unsafe or inexpedient for the corporation to continue to transact business?

A. No, sir; it did not, because they were aware themselves of the losses they had made, and how they were made, and expressed their determination to be more conservative in their management, and take less risks, although they had a right to take them under the charter.

Q. And so the examiner reported to you that there was a disposition to change in that respect?

A. Yes, sir.

Q. Did you have any power, as you understood it, according to your best judgment, to take any action in the premises?

A. In regard to this impaired capital?

Q. Yes?

A. None whatever.

Mr. Chapman reads the following extracts from the charter of the bank, passed May 6, 1870:

"The said company shall have power to grant, bargain, sell, buy or receive all kinds of property, real, personal or mixed, or to hold the same in trust or otherwise, to guarantee the payment, punctual performance and collection of promissory notes, bills of exchange, contracts, bonds, accounts, claims, rents, annuities, mortgages, choses in action, evidences of debt and certificates of property or value, and the titles to property, real or personal, upon such terms or commissions as may be established by the directors of said company, and to receive upon storage, deposit or otherwise, merchandise, bullion, specie, plate, stocks, bonds, promissory notes, certificates and evidences of debt, contracts or other property, and to take the management, custody and charge of real and personal estate and property, and to advance moneys, securities and credits upon any property, real or personal, on such terms or commissions as may be established or approved by the directors of said company."

The committee state that they do not desire to go any further in the investigation in regard to this bank.

#### THE LOANERS' BANK.

It is admitted that the charter incorporating the Pawnsers' Bank of the city of New York was granted April 27, 1868.

No evidence is offered in support of the charges.

*De Witt C. Ellis*, being duly sworn, testifies as follows:

By Mr. CHAPMAN:

Q. Was the name of the Pawnsers' Bank changed by legislation to the Loaners' Bank?

A. Yes, sir, it was by amendment to the charter; it was originally the Pawnors', and changed to the Loaners'.

Q. By the original charter there was a provision of this kind: "that the bank shall make an annual report to the superintendent of the banking department"; was there?

A. There was.

Q. Was there any penalty or punishment or infliction attached to that provision?

A. None whatever; just that bare provision, giving the superintendent no power whatever to enforce it, no authority to print it or to do any thing with it, simply stating that they should make an annual report.

Q. Had your predecessor printed its reports, or had it made any reports to the department?

A. Not any to my knowledge; I inquired of the clerk who has been there during his administration; I was told that they did send up one statement, and he stated that he had nothing to do with pawn-brokers, shops, and stuck the report in a pigeon hole, and that was the last of it.

Q. Did not print it?

A. Did not print it; had no power to print it.

Q. Had you any means of getting the expenses of printing or administration in connection with this bank, from the bank?

A. None whatever.

Q. Did the bank deposit any thing with the department?

A. No, sir.

Q. The department under Mr. Howell, prior to your going in, had not reported it as a bank, and had not required any report?

A. No, sir.

Q. Or made any examination?

A. None whatever; they could not; there was no power to make any examination; no power to compel a report.

Q. This was your condition down to the passage of the act of 1874, was it?

A. Yes, sir.

By Senator ST. JOHN:

Q. When that charter was altered, was there any change in the charter as to the powers of the bank?

A. No, sir; I think not; simply changing the name.

Q. It was changed to the Loaners' Bank; I want to know whether there was any restriction of powers?

A. No; I looked that up carefully.

Q. It was simply a change of the name of the bank?

A. That is all.



By Mr. CHAPMAN :

Q. The department at no time had any power, down to 1874 ; that never was questioned; no power to examine the bank or to do any thing with it ?

A. No, sir.

Q. Now, you come down to the act of 1874 ?

A. I think I can state that up to that time I had never heard of the institution, except after the passage of the act of 1874.

Q. You did not know that there was any such bank ?

A. No, sir ; I did not know that there was any such institution in existence.

Q. When chapter 324 of the laws of 1874 was passed — after that your attention was called to this bank ?

A. It was called to it in this way: that we had to ascertain what companies were in existence in the State that came under the provisions of that law, and in looking through the Bankers' Magazine and other sources of information, we found this among the rest.

Q. Then did you endeavor to make an examination of the bank ?

A. I did.

Q. Now, I will call the attention to this act of 1874: "Every trust, loan, mortgage, security, guaranty or indemnity company or association, and every corporation or association having the power and receiving money on deposit, existing or incorporated under any law of this State, or any corporation or association not incorporated under the laws of this State, which receive deposits or money or assume obligations in this State, other than banks, institutions for savings and insurance companies, shall" make a report and shall be under the supervision of the department. Then the bank, on your endeavoring to get a report from them, claimed that the word "banks," in this law which I have just read, took them out from under the provision of that law ?

A. That is the position they took and maintained to the end, that they did not come under the provision of this law at all.

Q. Did you send your examiner to the bank to make an examination of it, or go yourself ?

A. I examined this law pretty carefully.

Q. Tell what there is of it ?

A. I had very grave doubts myself as to the real position of that concern, whether it did come under the provision of the law or not, but I came to the conclusion in my own mind that we had not the power to meddle with them at all ; subsequently the question came up in another form ; questions were asked about the bank, and I made up my mind that I would test the question whether we could examine it or not ; I sent the commission to Mr. Reid, to go in there to

examine that bank ; they declined to allow him to examine it, on the ground that they were not under the jurisdiction of the bank department under the special charter ; I went to New York myself, and saw the president, and told him that I proposed to examine it ; that inquiries were made by prominent men in the State as to the condition of that bank, and if I had the power to examine it I proposed to do it ; he said that he could not consent ; they had always taken the position that we had no right to do so ; he wanted to consult with his counsel, and asked a delay for a day or two, which I gave him ; I told him to consult, but I wanted the thing determined one way or the other ; and he did bring me a long written opinion of Mr. Tracy, counsel for the bank.

By Senator WELLMAN :

Q. What is the name of the president ?

A. Dorr Russell ; that opinion took very strong ground that we had no right to examine the bank ; they furnished me some resolutions passed by the board, what they proposed to do, etc.

By Mr. CHAPMAN :

Q. And declined to let you examine ?

A. Declined to let me examine ; I took the papers and came back home with a view of getting the opinion of the attorney-general, and, if he sustained my position in regard to the examination, to test the question ; I had not much more than got home, two or three days — that is my best recollection — when they were in the hands of a receiver, which ended the whole case ; it was my action, I have no doubt, that forced them into liquidation, because it was done at once.

Q. Did you examine this opinion and compare it with the laws and refer to the laws cited therein ?

A. Yes, sir.

Q. With a good deal of care ?

A. Yes, sir.

Q. Now I ask you whether you have any doubt on the question of your having jurisdiction to examine that bank or compel them to report ?

A. I don't believe I had ; I believe that opinion of Mr. Tracy's is good law ; my opinion as a lawyer, perhaps, is not worth as much as some others, but it was my opinion, and is yet ; still, I should have tested the question if it had got as far as to the attorney-general.

By Mr. CHAPMAN :

Q. How did it get into the hands of a receiver ?

A. They went in themselves, on their own motion, or the action of some one connected with it, I don't know about that ; after the receiver was appointed I took no further action.

By Senator WELLMAN :

Q. You submitted the opinion of Mr. Tracy to the attorney-general ?

A. No, sir ; I had not much more than got home and had time to look it over, before it was in the hands of a receiver.

The committee state that they do not desire to make any further investigation in regard to this bank.

#### SECURITY SAVINGS BANK, NEW YORK CITY.

No evidence is offered in support of the charges.

*De Witt C. Ellis*, being duly sworn, testifies as follows :

By Mr. CHAPMAN :

Q. Tell, in short, what there is about the Security Bank ?

A. I cannot be positive about dates exactly, but my best recollection now is and it is refreshed by a statement made by the vice-president to me the other day, in New York, that sometime in the latter part of January or in February, 1874, Mr. Dewey, the then cashier of the Security Savings Bank, informed me that a robbery had been committed by the preceding cashier, on Christmas day, prior.

Q. That it had been committed then, or that they discovered it then ?

A. Committed then ; Mr. Dewey so informed me, that the former cashier had committed a robbery, on Christmas day, of about as they found, \$30,000 ; that was the first discovery ; and that he, Mr. Dewey, had been elected cashier in his place ; that he was then engaged — being a cashier and expert — in making a thorough and critical examination of the condition of the bank, with a view to ascertaining its true condition ; the officers of the bank were apprehensive that other larcenies had been committed by the cashier, as he stated to me, and they proposed to get at the bottom facts in the case, with reference to future action, whether they would go on or close up ; on the 1st of March, 1874, they had got so far along with their examination that they did find other larcenies committed ; they stopped taking deposits, and practically commenced to wind up the bank ; they found so much loss that they didn't deem it advisable to make up the capital, but to close up ; the vice-president informed me that they paid off all their depositors and divided the balance among the stock-

holders, paying, as I understood him — though I may be mistaken about the exact amount — about 60 per cent.

Mr. MACK — Twenty-one per cent.

Mr. CHAPMAN — To the stockholders ; the depositors were all paid.

The WITNESS — It was my recollection that he said about 60 ; I am not positive ; it does not make any difference ; they divided up the balance, and closed up the bank.

By Senator ST. JOHN :

Q. Did the Security Bank make reports ?

A. Yes, sir.

Q. What was their last report ?

A. It showed a surplus.

By Mr. CHAPMAN :

Q. Previous to the time of this stealing ?

A. Previous to the time of this stealing.

By Senator ST. JOHN :

Q. When was the report to the department ?

A. I don't remember.

By the CHAIRMAN :

Q. Was there any report made after they discovered the stealing ?

A. Yes, sir.

By Mr. CHAPMAN :

Q. The quarterly report of the Security Bank of the 28th of March, 1874, shows claims against Lowes ; that was the absconding cashier ?

A. Yes, sir.

Q. And against his sureties ?

A. Yes, sir ; they were debating how they would close up, and I think, shortly after the report was made, the receiver was appointed.

Mr. MACK — There never was any receiver appointed ; it was a committee of the stockholders.

The WITNESS — I suppose it was a receiver.

By Senator WELLMAN :

Q. By the preceding reports, had they given you to understand in any way that they were violating the law ; that is, that their capital was impaired ?

A. Nothing whatever.

Q. Or that there was any thing that justified you in closing them up?

A. No, sir; nothing whatever.

Q. Or that justified you in making an examination?

A. No, sir.

GERMAN SAVINGS BANK OF THE TOWN OF MORRISANIA, NEW  
YORK CITY.

The following report of the examiner is put in evidence:

GERMAN SAVINGS BANK OF THE TOWN OF MORRISANIA, NEW YORK CITY.

[Examined April 24, 1875, and subsequent days, by Geo. W. Reid.]

ASSETS.	Rate of Interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Bonds and mortgages	7	.....	.....	.....	\$283,450 00
New York city bonds.	7	\$30,000 00	106	\$31,800 00	
New York city bonds.	7	10,000 00	109	10,900 00	
Buffalo city bonds	7	40,000 00	102	40,800 00	
Morrisania town bonds	7	6,000 00	100	6,000 00	
West Farms town bonds	7	1,500 00	100	1,500 00	
East Chester town bonds	7	12,000 00	100	12,000 00	
Rye town bonds	7	24,000 00	100	24,000 00	
Mamaroneck town bonds	7	1,000 00	100	1,000 00	
Pelham town bonds.	7	9,000 00	100	9,000 00	
New Rochelle town bonds	7	500 00	100	500 00	
Southfield town bonds	7	41,000 00	97	39,770 00	
Banking-house, unfinished.	.....	.....	.....	.....	177,270 00
Real estate, two houses bid in on foreclosure...	.....	.....	.....	.....	20,684 11
Safe and fixtures	.....	.....	.....	.....	8,583 94
Cash in safe.	.....	.....	.....	\$4,497 28	3 358 33
Cash in Germania Bank	4	.....	.....	30,401 87	34,899 15

Interest accrued.....	.....	.....	.....	.....	8,636 00
LIABILITIES.					
Due depositors.....	.....	.....	.....	.....	
Interest accrued.....	.....	.....	.....	\$594,596 21	
Loan from Vermilye & Co .....	.....	.....	.....	9,500 00	
	.....	.....	.....	10,000 00	
Deficiency of assets*.....	.....	.....	.....	.....	614,096 21
					\$77,214 68

\*This deficiency has since been made good. (See report for January 1, 1876.)

GERMAN SAVINGS BANK OF THE TOWN OF MORRISANIA, NEW YORK CITY — (Continued).

Annual income and charges thereon.

INVESTMENTS, ETC.,	Rate of interest	Amount at par.	Revenue.	Totals.
<i>Income.</i>				
Bonds and mortgages.....	7	\$285,450 00	\$19,841 50	
City and town bonds .....	7	175,000 00	12,250 00	
Cash in bank.....	4	25,400 00	1,016 00	
Estimated rent, net amount after paying interest on amount still due on banking-house.....			1,600 00	\$34,707 50
<i>Charges.</i>				
Interest to depositors.....			\$30,000 00	
Salaries.....			2,600 00	
Internal revenue tax.....			300 00	
Other taxes.....			60 00	
All other charges.....			640 00	
Excess of income.....				33,600 00
				\$1,107 50

There is an apparent deficiency of more than \$77,000 in assets. Nearly three years ago the former president made a loan of \$105,000 to the Montclair Railroad Company of New Jersey, on various collaterals. At the last examination your examiner called attention to this loan as not authorized by the charter, and directed that it should be called in. A part of the loan was then paid, reducing it to \$90,500, when the company failed. It has been discovered that the president allowed the company to change the bonds which the bank originally held, for others of much less value (the trustees claim without their knowledge). The president resigned last year, and a new set of officers were elected, who appear determined to extricate the bank from the difficulty, and to save the depositors from loss. The collaterals now held could probably be sold for about \$25,000, leaving a deficiency of \$52,000.



*De Witt C. Ellis*, being duly sworn, testifies as follows :

By Mr. CHAPMAN :

Q. When was that report filed in the department ?

A. May 26, 1875.

Q. After this report came to the department, what was done ?

A. I cannot remember exactly the dates, but I can give you the history, the facts about it ; the president of the bank and counsel for the bank came up to see me in reference to it, as soon as they found what Mr. Reid's report was, saying that Mr. Reid had stated to them that they would be required to make up that deficiency at once ; they came up to see me, and Mr. Held, an elderly German, understood to be worth a million of dollars, said to me that that bank should pay dollar for dollar, if he had to pay it all himself, that they would go to work and make up the deficiency ; and we had a perfect understanding about it ; and they went back ; then there were some proceedings among the trustees that I cannot give in detail ; Mr. Hall, the counsel, is here and can tell you all about that, but it seems they prepared some bonds, individual bonds, covering all this and Mr. Hall came up with those bonds to me ; and I said that I had never taken any personal bonds, and I did not think I had any authority to take them, and I declined to take them ; that I should require the trustees to make good that deficiency in cash, or its equivalent in such securities as the bank was permitted by law to hold, and I think I gave him a letter to read to the board of trustees, stating just what I required ; I think I did ; I am not positive about that ; at any rate my requirement was communicated to the board of trustees and they acted upon it ; they got together and paid in in cash and good securities enough to wipe out all deficiency and make a surplus of about \$11,000.

Q. On the first of January following ?

A. That appeared in their report of January following, and also in a letter written to me by the counsel of the bank ; that, in brief, is the substance of it, and on that requirement being fulfilled I deemed it best for the bank to continue business ; I had confidence in the new trustees ; some of the very best men in Morrisania were in it, and all men of integrity, and unquestioned integrity ; the trouble with the bank took place with a former president, who had been removed and a new board elected ; my point was to secure the depositors ; if I put them into liquidation then, without any effort to, there would be a loss ; and I think I succeeded in securing the depositors.

By Senator ST. JOHN :

Q. Were the depositors all paid ; was there no loss ?

A. There is no receiver appointed yet ; but I am assured by the officers of the bank that they think they can pay dollar for dollar.

By Mr. CHAPMAN :

Q. The next report to the department was made the first of last January ?

A. Yes, sir ; this showed a surplus of \$12,100, in round numbers.

Q. On February 24, 1877, you reported them to the attorney-general ?

A. I did.

Q. Is this the letter which you sent to the attorney-general ? [Producing a paper.]

A. Yes, sir.

Q. This report was made on the request of some of the trustees, was it not ?

A. Which report ?

Q. Your application to the attorney-general ?

A. It was made after consultation with them ; we talked the matter all over and deemed it expedient to close the bank up, under all the circumstances.

Q. A receiver has not been appointed yet ?

A. Not yet ; I think Mr. Hall, and Gen. Sigel and Mr. Friedman came up.

Q. Gen. Franz Sigel ?

A. Yes, sir ; he came to see me with some of the others, and talked it all over.

Q. In this report made by Mr. Reid of his examination in 1875, he says that, " nearly three years ago, the former president made a loan of \$105,000 to the Montclair R. R. of New Jersey, on various collaterals ; " I will ask you whether that was not before you came in as superintendent at all ?

A. Yes, sir.

Q. He speaks of this loan not being authorized by the charter ; is he correct in that ?

A. Not as I read the charter.

Q. It has that same available fund provision ?

A. It has that same available fund clause in it which permitted them to loan one-third of their assets on any thing which the trustees might select.

Q. The same clause that was in one of these other banks which we have considered ?

A. Yes, sir ; and it was in a great many banks of the State at that time.

By Senator WELLMAN :

Q. What is the date of your letter to the attorney-general ?

A. February 24th, 1877.

By Mr. CHAPMAN :

Q. He says "a part of the loan was then paid, reducing it to \$90,500, when the company failed; it has been discovered that the president allowed the company to change the bonds which the bank originally held, for others of much less value (the trustees claim without their knowledge)"; that was all done before you was superintendent ?

A. Yes, sir.

By Senator WELLMAN :

Q. Did this bank stop receiving deposits ?

A. Yes, sir ; they are under injunction.

Q. The papers have been served, then ?

A. Yes, sir.

It is admitted that the papers were served February 28, by the attorney-general.

By Mr. CHAPMAN :

Q. So that so far as any irregularities are concerned which are mentioned by the examiner to you, if they existed, they occurred under the prior superintendent ?

A. Yes, sir ; that is as I understand it ; those investments were made prior to my connection with the bank department — or loans ; they were loans, I believe, originally.

Q. In your conversations with Mr. Reid, in regard to the German, after the examination, did he express to you entire confidence in their ability to work through ?

A. He did, in the men themselves, that they talked well, and acted well, and meant to save that bank, and they always talked that way to me.

Q. Did you deem it expedient to close them up at any time before you did ?

A. No, sir ; I deemed it expedient to get that deficiency made up to protect the depositors, if I could ; that is the view I took of it.

Q. Are not the depositors just so much better off to-day by reason of your action than they would have been ?

A. Yes, sir ; they are just so much better off, and the trustees just so much worse off, so far as dollars and cents go.

By Senator ST. JOHN :

Q. This putting into the hands of a receiver was by mutual consent and not by any action of yours ?

A. Yes, sir.

Q. He did not take the action upon any reports, but simply by the trustees and officers of the bank?

A. No, sir.

*Ernest Hall*, being duly sworn, testifies as follows:

By Mr. CHAPMAN:

Q. Where do you reside?

A. New York city, at Morrisania.

Q. Where this German Savings Bank is located?

A. Yes, sir.

Q. Were you attorney for the bank in 1875 and 1876, and down to 1877?

A. I was.

Q. And acquainted with the internal working of the bank?

A. To a considerable extent; yes, sir.

Q. And knew the trustees?

A. I have known them all for many years; I have lived there all my life, and most of them have.

Q. You might mention a few of the names of the trustees?

A. The men composing the board of trustees of the German Savings Bank were among the wealthiest, if not the wealthiest twenty men in the town of Morrisania, and men, I think, of integrity as high as any body of men of that number in the place; I could name some; Jacob Held, the president, was a retired merchant; Mr. Ebling and Mr. Hupfel, two of the largest brewers there are in the city; Mr. Kuntz is a retired brewer; Mr. Zuegner is an undertaker, doing a very large business and owning considerable property; Mr. Folz is a retired silk merchant of New York; Mr. Denike has some kind of business, I really forget what, I think a general store; at that time Mr. Grote, the ivory manufacturer of New York, was one of the trustees; John Eichler, a wealthy brewer, and I think last year the largest brewer in the city of New York; Gen. Franz Sigel; Dr. Zeuschner, a practicing physician there; Henry Schmidt, a wholesale liquor dealer; Nicholas Thiel.

Q. That is sufficient.

A. They were all men that lived there for a great many years.

Q. They were men in whom the depositors had confidence?

A. Yes, sir.

Q. Do you recollect of the examination made by Mr. Reid, and your attention being called to it?

A. I do.

Q. Do you recollect of your coming up here to have a talk with Mr. Ellis in regard to it?

A. I do.

Q. Just state what occurred ?

A. After the examination, that being I think in May or sometime after May, the attention of the bank officers was called to the matter by Mr. Reid or by Mr. Ellis, that these securities, which they had, had depreciated in value, making an apparent deficiency of assets in the bank ; I think Mr. Held, the president of the bank, and myself came to Albany some little time afterward ; I think it was perhaps twenty or thirty days ; we then had a conversation with Mr. Ellis, in which he stated that these securities must be replaced by securities bearing seven per cent interest or by money, or the bank would have to be closed ; we then had a talk with him, and, I think, several letters were written in regard to personal bonds being given by the bank ; the trustees agreed among themselves, either individually or collectively, to sign bonds for any amount that was required by the banking department ; I believe that I then prepared, I know I did, a separate individual bond for each trustee, to sign, binding themselves to the German Savings Bank as a corporation in a sum much more than sufficient to cover the deficiency ; those bonds were, or a great number of them, signed by the trustees ; afterward, I think, I came to Albany alone and saw Mr. Ellis, and upon an examination of the law he said that he had come to the conclusion that he could not receive those bonds as assets of the bank, that there was no provision of the law which made those legal assets ; there had been considerable discussion about that ; I then came up to Albany again to see Mr. Ellis, and had a conversation with him in regard to the matter, in which he stated that this deficiency must be made good in money or interest bearing securities so that the depositors would be absolutely safe ; and that time he read me a letter to the trustees and delivered it to me, which I delivered to them, for the purpose of showing them the exact views of the banking department, and in that he stated those facts ; the trustees got together — this was sometime in December, 1875 — the trustees got together between that and the first of January, and subscribed a sum in cash and in 7 per cent securities, bond and mortgages, and one steamboat bond of \$1,000 perfectly good, worth par ; they subscribed an amount more than sufficient to make up the deficiency which existed ; they then put that in their report and sent their report up to the superintendent of the banking department with a letter from myself explaining it ; I would say, part of this money was paid in bond and mortgage, part of it in cash ; the bonds and mortgages were drawn, I think, mostly to third parties and assigned to the bank ; those assignments are on record and are now in my possession, the instruments themselves.

Q. I would ask you if you yourself gave a bond and mortgage on your own place for \$1,000 ?

A. I did.

Q. Are you a trustee of the bank ?

A. I never was ; no, sir ; I came into the bank at the time of its troubles ; soon after, at least ; I would say further, that after Mr. Ellis called the attention of the bank to this matter, I expended a great deal of time and labor with the hope of discovering the means by which our former president transferred these valid securities for railroad bonds ; I came very near several times, very near to finding the combination ; but I never could find it near enough to afford to spend any money on it ; I followed it up a great deal.

Q. His actions in connection with that matter were all prior to the time Mr. Ellis was superintendent ?

A. Yes, sir ; three years before I came into the bank, I think ; there were two loans when I went there ; this one and another of \$48,000 that I collected every cent of with seven per cent interest, and this other one I think before Mr. Reid ever made any examination in February of that year ; I called the attention of the president of the bank to it, and told him I thought it was his duty to communicate it.

By Senator ST. JOHN :

Q. What loan do you speak of ?

A. The loan on which the loss was.

Q. How much was that ?

A. The loan was made by the bank to Mr. Pratt, I believe, the president, I think, of the Montclair Railroad Company, of \$105,000, and was afterward reduced to \$95,000 ; they gave securities of the town of Kearney, in New Jersey, Jersey City water bonds, I think — I am speaking from memory now — and I think some town of Somerville, or some such town ; all of which were worth par and bore seven per cent interest.

By Mr. CHAPMAN :

Q. This was all some five years ago ?

A. It was to my recollection, about five years ago ; the depositors have always been exceedingly opposed to have a receiver appointed, and in witness of that since the proceedings have been taken by the attorney-general, the reason they have delayed as long as they have has been at the request of the depositors ; the depositors to the extent of \$196,000 signed an agreement rather to take 75 cents on a dollar than to have a receiver appointed ; that agreement I have in my possession ; \$196,000 out of \$225,000 liabilities ; there was a feeling of great unanimity prevailing between the depositors and trustees ; so much so that when the meeting was first called of the depositors, I

being counsel for the bank, the depositors appointed me counsel to represent their interests at the same time; they considered that the trustees' interests and theirs were identical.

Q. There has been no charge of wrong-doing against the trustees?

A. No charge of any thing whatever, except the case of Mr. Pfeiffer, the former president; they kicked him out as quick as they could; he was recommended to the bank by the gentleman who formed the bank in the first instance, and was supposed to be a very fine man.

Q. The upshot of it is then, that after Mr. Ellis was informed of this deficiency, he insisted upon your making it good, and you did make it good before the next annual report?

A. It was made good and so reported to Mr. Ellis in the next annual report, which was supposed to be filed the 1st of January, and I believe was filed about the 20th of January, 1876.

Q. There was a surplus reported the 1st of January, this year?

A. Yes, sir.

Q. And the report comes to the attorney-general on the suggestion of some of the trustees of the bank?

A. I came up here with some of the trustees of the bank, and consulted with Mr. Ellis, and we discovered that we had not available assets sufficient to continue payment, and that it would be for the best interest of the depositors to have the bank closed; we so stated to Mr. Ellis; he asked if that was the understanding and determination of all the trustees of the bank; they stated that it was, and he, I believe, on the same day took proceedings.

By the CHAIRMAN:

Q. What time did you say this was that you came up to see Mr. Ellis?

A. I think the 24th of February.

Q. The report you say shows the surplus on the first of February?

A. Yes, sir.

Q. You were satisfied that there was not a surplus, that there was a deficiency, were you not?

A. No, sir; I am satisfied that there was a surplus.

Q. What was the reason then that they proposed to put the bank into liquidation?

A. That I can explain to you very readily; between October last and February when we came up here, there had been a withdrawal from the bank of about \$350,000, I think; there never was a run on the bank, never more than two or three people in the bank at a time, but the withdrawal was continual; they were paid 100 cents on a dollar; the trustees of the bank raised money on mortgages and raised money in different ways, and I think during the month of January paid out

something over \$100,000; they found then that they would have to sacrifice mortgages in order to pay more; their securities consisted of one item — the whole liabilities being only \$225,000 — one item of \$50,000, with some three years, I think, back interest, all bonds issued by the town of Southfield, bonds which they bought for 95 cents on a dollar, and which have been in litigation, therefore they were entirely unavailable, not available for any purpose; they could not raise money on them, or sell them; their deposits were about \$625,000; their bank building, I think, cost in all with the grounds about \$40,000 as reported, which was at that time a little over the amount of their surplus when they built it; they had then \$90,000 in bonds and mortgages, among them some very small amounts belonging to very poor people; we attempted to foreclose some, and did foreclose one or two, and had to buy the property in; we called in our bonds and mortgages, and got in about \$200,000 paid in cash, never lost any money on them at all; if a receiver is appointed, there will probably be a loss.

By Mr. CHAPMAN :

Q. Does not your experience as lawyer show you that there is always a loss when a corporation goes into the hands of a receiver?

A. When it goes into the hands of a receiver, the receiver has a lawyer, and when a lawyer gets hold of it, it always costs something, and in the case of a small bank like this, it is generally the old story of the oyster and the shell; the property that the bank has bought in — they never have bought but three pieces, and that is all worth to-day, at the depreciated value, more than they paid for it — the real estate which they bought in amounts to about \$7,000.

Senator ST. JOHN — \$8,583?

The WITNESS — The mortgage amounted to \$7,000, and the back interest and taxes, and foreclosure, makes the balance; that is all they ever bought in; they foreclosed about a dozen mortgages, and they all paid up.

Q. These questionable transactions which are alluded to in this report of Mr. Reid, the examiner, were all prior to Mr. Ellis' time?

A. I cannot swear to that, for I have not the least idea when Mr. Ellis became superintendent, but as far as my recollection goes, they were.

Q. About five years ago?

A. These things happened, so far as my knowledge goes, about five years ago; this one transaction; the bank had been wonderfully successful before that; they made a surplus of about \$27,000 in about three years.

Q. This is almost exclusively a German Bank?



A. Yes, sir.

Q. The Germans look upon it as a kind of a pet of their own?

A. No doubt about it.

Q. And they were bound to keep it up?

A. Yes, sir; they put their money in to keep it up; that is more than I have ever known any other bank trustees to do yet; and I would say that I think that between six and nine of the trustees who subscribed their \$2,000 apiece, mostly in cash, did not become trustees of the bank until long after this loss happened; one of them had not been a trustee for six months and he put in \$2,000; some of them did not.

Q. By reason of the course taken by Mr. Ellis, is there any doubt in your mind but that the depositors will get more than they would if the bank had been put into the hands of a receiver at that time?

A. They must get exactly as much more as this deficiency which they made up amounted to more than that, for this reason, that \$400,000 has been paid in full; they have been paid dollar for dollar, and therefore the deficiency, if any, of \$52,000 goes all to the depositors; only having \$225,000 on hand, it would be an immense saving to the depositors. If they had been closed at the time this thing first happened, or at the time the report was made, I don't suppose they would have paid, with a receiver in, over 75 cents on a dollar.

Q. To the whole of them?

A. To the whole of them, and very doubtful if they would have paid that.

Adjourned to meet at the St. Nicholas Hotel, New York city, May 14, 1877, at 10 A. M.

NEW YORK, *May* 14, 1877.

The committee met at the St. Nicholas Hotel, at 10 A. M., pursuant to adjournment.

Present: Senators COLEMAN (the chairman), WELLMAN and ST. JOHN.

### THIRD AVENUE SAVINGS BANK, NEW YORK CITY.

Mr. Olmstead, of the firm of Tracy, Olmstead & Tracy, appears as counsel for Mr. Mallon.

*Bernard Gormley*, being duly sworn, testifies as follows:

By Mr. OLMSTEAD:

Q. Were you a depositor in the Third Avenue Savings Bank in this city, in 1874?

A. I was.

Q. Your wife was also a depositor in 1875 ?

A. Yes, sir.

Q. What is her name ?

A. Catherine C. Gormley.

Q. Is this her deposit book which you produce, in that bank, being deposit book No. 58,614 ?

A. Yes, sir

Book offered in evidence for the purpose of showing that on March 24, 1875, there was a deposit of \$100, and that on September 10, 1875, there was a deposit of \$100 by Mrs. Gormley in that bank.. No cross-examination.

*Jacob Riger*, being duly sworn, testifies as follows :

By Mr. OLMSTEAD :

Q. Were you a depositor in the Third Avenue Savings Bank in this city in 1875 ?

A. Yes, sir.

Q. Did you make a deposit in that bank after the 23d of March, 1875 ?

A. When did the bank fail, in 1874 ?

Q. Did you make a deposit in 1875 ?

A. I did.

Q. When did you make a deposit, and how much ?

A. On the 12th of July, 1875.

Q. What was the amount that you deposited on that day ?

A. The amount was \$2,150 and some cents.

Q. Have you received any portion of that money ?

A. Fifteen per cent ; will you allow me to make a statement ?

Q. Yes.

A. I asked the secretary at the time, on the 12th of July, when I made this deposit ; I had been in the habit of making deposits in this bank before, under similar circumstances, and I asked him —

[Objected to.]

By Senator WELLMAN :

Q. Was this conversation, or the substance of it, ever communicated to Mr. Ellis ?

A. Mr. Ellis' name never was mentioned ; I never saw him or had any conversation with the secretary in regard to Mr. Ellis.

Mr. OLMSTEAD proposes to show by this witness that the secretary

informed him when he made that deposit, on the 12th of July, that the bank had not been making any money for the last six months, but that they had a large amount of money on hand, and were doing a good business, and had more money than they could take care of.

The committee rule that, for the present, conversations between the officers of the bank and depositors will not be received.

*Cross-examination :*

By Mr. CHAPMAN :

Q. Have you got your bank-book here ?

A. I have not ; I forgot it ; I can get it.

Q. Did you withdraw any money during that time, from March until September ?

A. No ; except the 15 per cent that I got from the receiver.

*Edward Mallon*, being duly sworn, testifies as follows :

By Mr. OLMSTEAD :

Q. Are you the same person who preferred these charges against Mr. Ellis ?

A. Yes, sir.

Q. Do you reside in the city of New York ?

A. Yes, sir.

Q. Were you a depositor in the Third Avenue Savings Bank in this city ?

A. Yes, sir.

Q. Did you make any deposits in that bank subsequent to March 22, 1875 ?

A. Yes, sir.

Q. What deposits did you make subsequent to that date ?

A. April 19, \$3,500.

Q. You produce your bank-book, No. 60,246 ?

A. Yes, sir.

The book shows that on April 19, 1875, \$3,500 was deposited, and there is to his credit on the book a dividend on May 31, 1876, of \$608.04, being 15 per cent.

Q. Is that all the money that you have received on that deposit ?

A. Yes, sir ; that is all I received on that deposit.

Q. Fifteen per cent dividend ?

A. Yes, sir.

Mr. OLMSTEAD offers the book in evidence.

Q. Is Mary Mallon your wife ?

A. Yes, sir.

Q. Was she a depositor in that bank?

A. Yes, sir.

Q. Did she make a deposit after March 22, 1875, in that bank?

A. No, sir.

Q. Prior to that time?

A. Yes, sir.

Q. How much had she and you in the bank on March 22, 1875?

A. The book shows it; I don't remember exactly [referring to the book]; over \$8,000?

Q. How much had you deposited up to the time of the failure of the bank, both of you; over \$8,000.

A. Yes, sir.

By the CHAIRMAN:

Q. Then you both had about \$8,000 in when the bank failed?

A. Yes, sir.

By Mr. ODMSTEAD:

Q. You understand that there has been 15 per cent dividend paid? [Objected to.]

Q. You are not acquainted with Mr. Ellis, personally, are you?

A. No, sir; I never saw the gentleman, to my knowledge.

Q. Have you informed yourself in any way about the condition of this bank by an examination of the books?

A. Only from the receiver.

*Cross-examination:*

By Mr. CHAPMAN:

Q. Did you draw up these charges, that were signed by you, yourself?

A. No, sir; I did not.

Q. Who drew them up?

A. I can't tell you.

Q. Who presented them to you?

A. Mr. Mack.

Q. John Mack?

A. Yes, sir.

Q. That is all you know about it?

A. That is all.

*Bernard Gormley, recalled.*

By Mr. CHAPMAN:

Q. Did you not draw out, you or your wife, July 1, 1875, \$180?

A. I don't know, that book will show.

Q. The book shows that, does it not?

A. Yes, sir.

. . . By Mr. OLMSTEAD :

Q. Your wife received a dividend of \$15.19?

[Objected to. Objection withdrawn.]

It appears by the book that the amount of dividend which Mrs. Gormley received from the receiver on May 31, 1876, was \$15.19.

Mr. Olmstead offers to prove by Mr. Mallon, that on or about the 28th day of August, 1875, he went to the bank for the purpose of drawing out his money, and that the secretary told him he should require the usual sixty days' notice, and the secretary then told Mr. Gormley that the bank was perfectly solvent and he was to have his money at the end of sixty days, and he went at the end of sixty days and did not get his money.

[Objected to on the ground that it was not brought to Mr. Ellis' attention, and is hearsay and improper. Objection sustained.]

*George W. Reed*, being duly sworn, testifies as follows :

By Mr. OLMSTEAD :

Q. Where do you reside?

A. In Elizabeth, N. J.

Q. How long have you resided there?

A. About twenty years.

Q. What is your business?

A. I am State bank examiner.

Q. Of the State of New York?

A. Of the State of New York.

Q. Were you residing there when you were appointed examiner?

A. Yes, sir.

Q. How long have you been examiner?

A. Five years and a-half about; I was appointed in November, 1871.

Q. Have you ever examined into the condition of the Third Avenue Savings Bank in this city?

A. Yes, sir.

Q. When did you make the first examination of that bank?

A. In the spring of 1873, I think it was.

Q. Was it on April 14? [Showing witness book.]

A. April 14, 1873; yes, sir.

Q. Was Mr. Ellis superintendent at that time of the banking department?

A. Yes, sir.

Q. And has been ever since?

A. Has been ever since; yes, sir.

Q. When you make examinations of these banks, do you make them of your own motion or on Mr. Ellis' order?

A. I send to Mr. Ellis for commissions; first I arrange to examine the banks, and he sends me the commissions, and then I take my own time to examine the different banks.

Q. Do you send him suggestions as to whether, in your opinion, banks should be examined?

A. No, sir; I have to examine them all in two years, and I take them as most convenient.

Q. The law requires you to examine them as often as once in two years?

A. Yes, sir.

Q. Or requires the bank superintendent to do so, and you examine them?

A. Yes, sir.

Q. Are you in the habit of examining any of the banks oftener than once in two years?

A. Yes, sir; whenever I think it necessary, or whenever the superintendent requests me to do so.

Q. The statute requires you to examine them as often as once in two years?

A. Yes, sir.

Q. Did any one examine the Third Avenue Savings Bank with you in 1873?

A. Yes, sir; William F. Aldrich and Isaac H. Vrooman.

Q. Were they also bank examiners?

A. They were assistants, under me.

Q. They were your deputies?

A. Yes, sir.

Q. Please look at a report of an examination purporting to have been made by you of this bank on the 14th of April, 1873, contained in the annual report of the superintendent of 1873, on page 298, and state whether that is your report at that time? [Handing witness a book.]

A. Yes, sir.

Q. Please look at the document now shown you and state what it is? [Handing witness a paper.]

A. It is my report on the examination of the Third Avenue Savings Bank, made on the 14th day of April, 1873, to Mr. Ellis, the superintendent.

Q. That is the original report ?

A. Yes, sir ; the original report ; with a note appended dated May 17, 1873.

Q. At the time that examination was made, did you examine any of the officers of the bank under oath ?

A. Yes, sir.

Q. Who ?

A. The managing man ; I think it was Mr. Morgan who was then secretary.

Q. Is his examination annexed to the report ?

A. Yes, in part ; the answers that he made to these various questions are embodied in the report.

Q. What is Mr. Morgan's first name ; doesn't the document show his name ?

A. No, sir ; David Morgan.

By Senator ST. JOHN :

Q. You say you did examine the secretary, Mr. David Morgan, under oath at that time ?

A. Yes, sir.

By the CHAIRMAN :

Q. Any other officers ?

A. I don't remember whether I did or not ; I usually put the managing officer under oath, whoever has charge of the bank at the time.

By Mr. OLMSTEAD :

Q. What did you find to be at that time the total value of the bonds and mortgages ?

A. Two hundred and sixty-four thousand one hundred dollars.

Q. What was the total amount of the bonds other than bonds and mortgages ?

[Objected to on the ground that the report itself shows.]

A. Four hundred and thirty-nine thousand three hundred and sixty-five dollars.

Q. What is the total value of the real estate as appears by that report ?

A. Five hundred and eighty-five thousand three hundred dollars.

Q. How did you inform yourself at the time of the values of these different securities ?

A. The State and other stocks in part were ascertained from the selling prices in Wall street, and others that we could not ascertain we put them down as near as we could from the books of the bank and from the information that we could get in various ways.

Q. How about the real estate?

A. The real estate we took, I think principally as it stood on their books, and from the information that we could obtain, and also from a report that had been made to the department previously — a more elaborate report; putting them all together we fixed upon this valuation.

Q. How long, previously to this report, was that report made that you refer to?

A. I think nearly two years, or a year and a half; about a year and a half I think.

Q. Had there not been a considerable variation in the price of real estate between 1871 and 1873?

A. I don't know that there had at that time.

Q. Did you get the estimate of any appraisers of the value of this real estate?

A. No, not unless they had it from their own officer.

Q. Did they have them there?

A. I don't remember; I think these were taken principally from their books, what they had cost — what they had it entered as costing on their books.

Q. Did you not know that a portion of that real estate had been taken for debts due the bank?

A. Yes, sir; I think it all had, except the banking-house.

Q. Had you any reason to suppose that it was taken by the bank at its true valuation?

[Objected to.]

Mr. Olmstead proposes to show that, notwithstanding the condition of this bank at this time, there was no report and no examination by Mr. Ellis, or by his examiners, from the 14th of April, 1873, until March, 1875; that he took no pains to inform himself of the condition of the bank, or to protect the depositors; and that the real estate was increased in value, notwithstanding the condition of the market, without any apparent cause, from the first report to the second report, to the amount of \$52,155.51; and proposes to connect the report of 1873 with the report of 1875, and that Mr. Ellis knew the condition of this bank.

[Objected to as not pertinent to the charges made by Mr. Mallon.]

The committee decide that any testimony showing the condition of the bank, as brought to the knowledge of Mr. Ellis at any time, either by his examiners or otherwise, between the spring of 1873, after he became bank superintendent, down to March, 1875, is admissible.

Q. What did you do with your report of April 14, 1873, after you had made it?

A. Sent it to Albany, to Mr. Ellis.



Q. The superintendent?

A. Yes, sir.

The following report of the examiner, of April 14, 1873, is put in evidence:

## THIRD AVENUE SAVINGS BANK, NEW YORK.

[Examined April 14, 1873, by George W. Reid, William F. Aldrich and Isaac H. Vrooman.]

ASSETS.	Rate of interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Bonds and mortgages	7	.....	.....	.....	\$264,100 00
Kansas State bonds	7	\$175,000 00	100	\$175,000 00	
Louisiana State bonds (Levee)	8	100,000 00	100	100,000 00	
Georgia State bonds	7	50,000 00	90	45,000 00	
Alabama State bonds	8	68,500 00	84	57,540 00	
Virginia State bonds and coupons	6	3,500 00	45	1,575 00	
Jersey City bonds	6	43,000 00	95	40,850 00	
Dry Dock, East Broadway and Battery R.R. b'ds	7	20,000 00	97	19,400 00	
Ninety-two acres of land at Tarrytown at \$1,500	.....	.....	.....	\$138,000 00	439,365 00
Lots, Fifth av., 85 and 86 streets	.....	.....	.....	85,000 00	
Five houses, East 46th street, \$30,000 each,	.....	.....	.....	.....	
\$150,000; less mortgage,\$50,300	.....	.....	.....	99,800 00	
One house, East 47th st., \$42,500; less mortgage, \$8,500	.....	.....	.....	34,000 00	
36 E. 49th st., \$42,500; less mortgage, \$14,000	.....	.....	.....	28,500 00	
Banking-house	.....	.....	.....	180,000 00	
House and lot adjoining	.....	.....	.....	20,000 00	
Furniture and fixtures	.....	.....	.....	.....	585,300 00
					14,980 88

Cash on hand.....	.....	.....	.....	4,478 97	.....
Cash on deposit in Fifth National Bank.....	.....	.....	.....	2,652 83	.....
Cash on deposit in National Park Bank.....	.....	.....	.....	131 30	.....
Cash on deposit in Murray Hill Bank.....	.....	.....	.....	8,366 59	.....
Cash on deposit in Manuf and Builders' Bank.....	.....	.....	.....	9,238 80	\$24,868 49
Due on mortgage expenses.....	.....	.....	.....	.....	4,181 78
Guarantee fund (individual bond of trustees).....	.....	.....	.....	.....	100,000 00
Rents due.....	.....	.....	.....	.....	650 00
Accrued interest.....	.....	.....	.....	.....	32,776 02
					<hr/>
					\$1,466,222 17
LIABILITIES.					
Due depositors.....	.....	.....	.....	1,445,337 51	.....
Mortgage. ....	.....	.....	.....	1,992 00	.....
Ground rent.....	.....	.....	.....	2,848 00	.....
Internal revenue.....	.....	.....	.....	779 67	.....
Accrued interest.....	.....	.....	.....	21,000 00	.....
					<hr/>
Deficiency of assets.....	.....	.....	.....	.....	1,471,957 18
					<hr/>
					\$5,735 01

THIRD AVENUE SAVINGS BANK—(Continued).  
Annual income and charges thereon.

INVESTMENTS, ETC.	Rate of Interest.	Amount at par.	Revenue.	Totals.
INCOME.				
Bonds and mortgages .....	7	\$264,100 00	\$18,487 00	
Kansas State bonds .....	7	175,000 00	12,250 00	
Louisiana State bonds .....	8	100,000 00	8,000 00	
Georgia State bonds .....	7	50,000 00	3,500 00	
Alabama State bonds .....	8	68,500 00	5,480 00	
Virginia State bonds (interest suspended) .....				
Jersey City bonds .....	7	43,000 00	3,010 00	
Dry Dock, East Broadway and Battery R. R. bonds .....	7	20,000 00	1,400 00	
Guarantee fund .....	7	100,000 00	7,000 00	
Guarantee bonds on Tarrytown land .....	7	138,000 00	9,660 00	
Cash in bank .....	4 to 7	20,000 00	1,000 00	
Rents .....			27,460 00	\$97,247 00
CHARGES.				
Interest to depositors .....			\$78,000 00	
Salaries .....			7,300 00	
Internal revenue .....			300 00	
Taxes .....			5,400 00	
Other expenses (estimated) .....			2,500 00	93,500 00
Excess of income .....				\$3,747 00

Mr. Chapman produces the original report of the examination of April 14, 1873, which is shown the witness.

By Mr. CHAPMAN :

Q. That was all the report that you sent to him at that time ?

A. Yes, sir.

By Mr. OLMSTEAD :

Q. Was all this paper sent to Mr. Ellis ?

A. Yes, sir.

The original report is read in evidence, and is as follows :

BANK DEPARTMENT,  
ALBANY, April 3, 1873. }

Pursuant to the authority conferred, and the duty imposed upon the superintendent of the banking department, by chapter 693, Laws of 1871, I do hereby appoint George W. Reid, Isaac H. Vrooman, and W. F. Aldrich, to examine into the condition, working, and affairs generally of the Third Avenue Savings Bank, New York, and report therein to me in detail, as soon as practicable.

Given under my hand and official seal, at Albany, the day and year first above written.

D. C. ELLIS,  
*Superintendent.*

HON. D. C. ELLIS,

*Superintendent Bank Department :*

SIR: The undersigned, appointed to examine the condition, working, etc., of the Third Avenue Savings Bank of New York,

#### REPORT :

That difficulties having existed for some time among the trustees of this bank, and statements as to its solvency having been repeatedly published in a daily paper, a *run* commenced upon the institution early in January, 1872, which did not cease until, after forty-five days, \$4,500,000 had been drawn out. The courage and perseverance with which the trustees stood up under this pressure and met all demands, and the refusal of the supreme court to appoint a receiver, appears to have convinced the remaining depositors that their funds were safe, and since that time the deposits have been steadily increasing.

A large number of the old board of trustees having resigned, the vacancies were filled by gentlemen of wealth and character, who appear determined to sustain the institution, and there is every reason to hope that it will be successful. Their personal obligation for the

deficiency of last year is already on file with the department, and they have also agreed to pay to the bank a sufficient amount to cover interest on the unproductive real estate at Tarrytown, and no doubt will make good the small deficiency that now appears in the assets. The estimate of receipts over expenditures for this year is \$3,747.

Your examiners have reason to believe, from diligent inquiry and personal examination, that that portion of the real estate at Tarrytown is worth full as much as the officers have estimated it in the assets.

The item of \$4,181.78 in the assets is balance of expenses in the transfer of mortgages to other parties at the request of the mortgagors, and will no doubt all be collected.

Respectfully submitted,

GEO. W. REID,  
W. F. ALDRICH,  
J. H. VROOMAN.

Since our examination, the troubles in Louisiana have rendered their State bonds unsalable, and, if continued, may cause a heavy loss to the bank.

GEO. W. REID.

*May 17, 1873.*

*Assets and liabilities of the Third Avenue Savings Bank of New York, upon the 14th day of April, 1873, as found upon examination made by the direction and authority of the Superintendent of the Bank Department.*

	Rate of interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Bonds and mortgages	7	.....	....	\$264,100 00	
Kansas State bonds	7	\$175,000 00	100	175,000 00	
Louisiana State bonds (levee)	8	100,000 00	100	100,000 00	
Georgia State bonds	7	50,000 00	90	45,000 00	
Alabama State bonds	8	68,500 00	84	57,540 00	
Virginia State bonds and coupons	6	3,500 00	45	1,575 00	
Jersey City bonds	6	43,000 00	95	40,850 00	
Dry Dock, East Broadway and Battery R. R. bonds	7	20,000 00	97	19,400 00	\$439,365 00
Ninety-two acres land at Tarrytown, \$1,500	....	138,000 00	....	.....	
Lots, Fifth Avenue, 85th & 86th streets	....	85,000 00	....	.....	
Five houses East 46th St. \$30,000 ea., \$150,000; less mortgage \$50,500.	....	99,800 00	....	.....	
One house East 47th street, \$42,500, less mortgage \$8,500	....	34,000 00	....	.....	
House 36 East 49th st., \$42,500, less mortgage \$14,000,	....	28,500 00	....	.....	
Banking house	....	180,000 00	....	.....	
House and lot adjoining	....	20,000 00	....	.....	
Furniture and fixtures	....	.....	....	\$585,300 00	
Cash on hand	....	4,478 97	....	14,980 88	
Cash Fifth Nat. Bank	....	2,652 83	....	.....	
Cash Nat. Park Bank	....	131 30	....	.....	

*Assets and liabilities of the Third Avenue Savings Bank of New York, etc.— (Continued).*

	Rate of interest.	Amount at par.	MARKET VALUE.		Totals
			Rate.	Amount.	
Cash Murray Hill Bank .....	..	\$8,366 59	....	.....	
Cash Manuf. and Builders Bank .....	..	9,238 80	....	\$24,868 49	
Due on mortgage expenses .....	..	.....	....	4,181 78	
Guarantee fund .....	..	.....	....	100,000 00	
Rents due .....	..	.....	....	650 00	
Accrued interest .....	..	.....	....	32,776 02	\$1,466,222 17
Deficiency .....	..	.....	....	.....	5,735 01
Due depositors .....	..	.....	....	\$1,445,337 51	
Mortgage .....	..	.....	....	1,992 00	
Ground rent .....	..	.....	....	2,848 00	
Internal revenue .....	..	.....	....	779 67	
Accrued interest .....	..	.....	....	21,000 00	\$1,471,957 18



*Annual income from the investments of the Third Avenue Savings Bank, as they were found upon examination made on the 14th day of April, 1873, and the annual charges thereon at current rates, or estimated on the basis of 1872.*

INVESTMENTS.	Rate of Interest.	Amount at par.	Revenue.	Totals.
Bonds and mortgages.....	7	\$264, 100 00	\$18, 487 00	
Kansas State.....	7	175, 000 00	12, 250 00	
Louisiana.....	8	100, 000 00	8, 000 00	
Georgia.....	7	50, 000 00	3, 500 00	
Alabama.....	8	68, 500 00	5, 480 00	
Virginia, interest suspended.....				
Jersey City.....	7	43, 000 00	3, 010 00	
Dry Dock, East Broadway and Battery R. R. bonds.....	7	20, 000 00	1, 400 00	
Guarantee fund.....	7	100, 000 00	7, 000 00	
Guarantee bonds on Tarrytown land.....	7	138, 000 00	9, 660 00	
Cash in bank.....	4 to 7	20, 000 00	1, 000 00	
Rents.....			27, 460 00	\$97, 247 00
Interest to depositors.....			\$78, 000 00	
Salaries.....			7, 300 00	
Internal Revenue.....			300 00	
Taxes.....			5, 400 00	
Sundries estimated.....			2, 500 00	93, 500 00
Surplus each year.....				\$3, 747 00

Sundry items of assets or liabilities, also other statistics of the Third Avenue Savings Bank as found upon examination made April 14, 1873:

Real estate owned, banking-house.

Location, Third avenue and Twenty-sixth street.

Dimensions of ground,  $26' 6'' \times 84'$   
 $20' 6'' \times 98' 9''$

Dimensions of building, covers whole lot.

Cost of ground, \$———.

Building .....	\$180,000 00
Estimated market value of real estate .....	180,000 00
Amount of cash on hand.....	24,868 49
In vault (to be verified by examiner's account) .....	4,478 97
In banks or trust companies (to be verified by certificates of bank officers), viz.:	
Fifth National Bank.....	2,652 83
National Park Bank .....	131 30
Murray Hill Bank .....	8,366 59
Manufacturers and Builders' Bank.....	9,238 80
Estimate or approximate calculation of interest accrued or due and unpaid on investments at this date, viz.:	
On bonds and mortgages.....	15,076 89
On stocks .....	12,711 25
On call loans, none.	
Guarantee bonds 100 M.....	2,022 22
On deposit in bank.....	175 00
Guarantee of Tarrytown income.....	2,790 66
What amount of the above is more than three months overdue.....	32,776 02
Rent due and collectible, or accrued to date.....	650 00
Any other properties constituting assets, viz.:	
Guarantee fund, secured by bonds bearing seven per cent interest.....	100,000 00
Annual rental of real estate owned or leased, at current rates .....	27,460 00
Rate of interest on call loans, none.	
Rate of interest on deposits in bank, etc., four to seven per cent:	
Interest credited January 1, 1872 .....	142,344 45
Deposits that date .....	4,938,980 72
Interest credited July 1, 1872 .....	37,375 87
Deposits that date .....	1,321,355 82
Interest credited January 1, 1873 .....	39,169 98
Deposits that date .....	1,396,661 90
Amount due depositors this date.....	1,445,337 51

Estimate of interest accrued this date.....	\$21,000 00
Any other debts or liabilities due or accrued this date, viz.:	
On mortgage due by bank .....	1,992 00
Ground rents due by bank .....	2,848 00
Interest received.....	779 67
Miscellaneous facts relating to the condition and conduct of business of the Third Avenue Savings Bank, in the city of New York, as found upon examination made by direction of the superintendent of the bank department, 14th April, 1873 :	

#### ORGANIZATION.

Charter number of trustees .....	22
Number of vacancies.....	2
Number constituting quorum .....	8

Officers elected or appointed from trustees — President, first and second vice-presidents, secretary, surveyor and counsel. None receiving salary except secretary.

Officers, clerks and other employees not members of the board — Actuary, teller, two book-keepers and janitor.

Standing or regular committees of the board, their powers and duties:

1. Finance — General supervision over the moneys of the bank, make investment and loans under the direction of the board of trustees.

2. Attending — Attend at the bank and make examinations from time to time, and report to the board.

3. Nominate — Consider all propositions for new trustees, and report.

#### EXPENDITURES.

Salaries, current rate, viz.: Secretary, \$2,000; actuary, \$1,800; teller, \$1,800; book-keeper, \$400; book- keeper, \$400; janitor, \$900.....	\$7,300 00
Other expenses, basis of 1872 : Rent, none.	
Internal revenue tax, January, 1873.....	779 67
Other taxes.....	3,400 00
Furniture, fixtures and repairs, legal expenses, printing and advertising, stationery and blank books, fuel, lights and attendance, other expenses.....	2,500 00

#### CONDUCT OF BUSINESS.

Regular meetings of the board, first Saturday after the first Monday in each month.

Average attendance 1872, 10.

Attendance of officers during business hours, president and secretary (all day).

Attendance of trustees, moderate.

Application for loans on bond and mortgage, how made; in formal application, to whom referred? Finance committee.

Report on value of property, by whom made? Surveyor.

To whom? Finance committee.

In what form? Certificate.

Are applications for loans and bond on mortgage filed or otherwise preserved? Filed by attorney.

Ditto of reports concerning value of property? In book form at the bank.

Action by vote or otherwise — by whom necessary before money is advanced on bond and mortgage? Finance committee, under approval of board.

Ditto of stock investments? Ditto.

Ditto of call loans? Ditto.

Ditto of deposits in bank? Board of trustees' authority.

How or by whom are the companies designated, in which insurance, as security for loans on bond and mortgage, is effected? In judgment of officers.

Is the opinion of your counsel ever taken concerning the legality of investments, otherwise than on bond and mortgage? When necessary.

Opinion in writing or oral? Oral.

At what period does interest on deposits commence? January, April, July and October.

During what time must a deposit remain to be entitled to interest? Until dividend day, viz.: January and July.

By what form of action is the rate fixed or declared? By special resolution of board of trustees.

Is interest declared or fixed or promised in advance, or only at expiration of interest period? Declared at expiration of interest period.

Is it based upon the ascertained profits or earnings of the interest period for which it is declared, after deducting expenses therefrom, or is it fixed arbitrarily? From profits, after deducting expenses.

Who is the responsible officer in charge of the conduct of business during business hours? President and secretary.

Hours during which bank is open? 10 A. M. to 3 P. M., daily. Monday, Wednesday and Saturday evenings, 6 to 8 o'clock.

Who receive and pay moneys over the counters? Teller and assistants.

What memoranda or entries, made by receiving-teller, of transac-

tions? Deposit ticket first entered in a blotter (when the money is recounted), and often in the deposit-book.

What ditto by paying-teller? Receipts taken for all payments, and afterwards entered in draft-book.

Who revises and compares these with cash at close of business? Book-keepers enter tickets which must agree with cash of tellers.

How often revised and checked and compared by any other officer or committee? Revised by officers during the day.

In whose custody, or accessible to whom, are the securities of the bank kept? President, secretary and actuary.

How often and by whom examined? By attending committee, at various times.

How is their correctness verified? By stock register and general ledger account.

At these examinations is the cash actually counted? *Yes.*

How is amount of cash deposited in bank ascertained by them? By certificates from banks.

Reports and statements of total cash received and disbursed made by whom? Secretary and actuary.

To whom? Board of trustees. How often? Monthly.

In what form? Statements. How and by whom verified? Examined by board.

Ditto of assets and liabilities? By officers.

Bonds of officers, etc., viz.: Secretary, \$10,000; actuary, \$5,000; teller, \$5,000; two book-keepers, \$5,000 ea.; janitor, \$1,000.

In whose custody? President's.

Number of open accounts? April 1, 1873, 8,673; 14th, 8,633.

Largest single? Five thousand dollars. Number exceeding \$5,000? None over \$5,000.

Average? One thousand six hundred and seventy-four.

Are depositors allowed to draw checks upon their account? In two or three instances when the pass-book is with the bank.

By whom must the checks of the institution be signed? President and secretary.

Has any officer or trustee, to your knowledge or according to your belief ever received any commission or part of commission, or any bonus from any person, on any loan on bond and mortgage, or on the purchase or sale of any stocks or bonds by this institution? No.

Q. What special inquiry did you make into the value of the Tarrytown real estate?

[Objected to unless communicated to Mr. Ellis.]

The committee rule that the evidence is inadmissible, unless the information was shown to Mr. Ellis by reports or otherwise.

Q. When did you make the next examination of the Third Avenue Savings Bank, after April 14, 1873?

A. March, 1875.

Q. Was there any examination of the bank made, to your knowledge, up to that time, after your examination of 1873?

A. No, sir.

Q. By any one connected with the banking department?

A. No, sir; there was no examination between the two.

By Senator ST. JOHN:

Q. In other words, no special examination?

A. No, sir.

By Mr. OLMSTEAD:

Q. Up to March 22, 1875?

A. Yes, sir.

Q. Is a report of the banking department published every year?

A. Yes, sir.

Q. Does the department receive from the various banks sworn statements of their condition?

A. They do.

Q. Each year?

A. Yes, sir.

Q. And those statements are embodied in a published report?

A. Yes, sir.

Q. Was there a report printed for the year 1875?

A. Yes, sir; every year.

Q. Please look at the book now shown you, and state whether that is the report for the year 1875? [Handing witness a book.]

A. That is the report for 1874; it was sent to the legislature March 5, 1875, for 1874.

By Senator ST. JOHN:

Q. It would be as the bank stood on the first of January, 1875?

A. Yes, sir.

Mr. Olmstead claims that this book being issued in connection with the banking department, it came to the knowledge of Mr. Ellis, and with that view offers in evidence the report contained in it, on page 168, in reference to the Third Avenue Savings Bank.

The following is a copy of the report :

# THIRD AVENUE SAVINGS BANK, NEW YORK CITY.

[Third avenue, corner of Twenty-Sixth street ; incorporated 1854.]

JOHN P. LYON, *President.*

WILLIAM S. CARMAN, *Secretary.*

## FINANCIAL.

### Resources.

Bonds and mortgages.... \$269,850 00  
 Stock investments, viz. :

Stocks and bonds.	Cost.	Par value.	Estimated market value.	
Stocks other than New York .....	\$313,264 87	\$347,000	\$347,000	
Jersey City bonds.....	39,200 00	43,000	43,000	
Dry Dock, East Broadway & Battery R. R. bonds .....	8,750 00	10,000	10,000	
	<u>\$361,214 87</u>	<u>\$400,000</u>	<u>\$400,000</u>	361,214 87

### Real Estate :

Bank buildings covering two lots, Third avenue and 26th street, cost .....	\$171,948 65	
Nine houses and lots, New York city, cost and market value.....	228,618 51	
Real estate at Tarrytown, Westchester Co., N. Y., cost .....	138,000 00	
		598,567 16
Cash on deposit in banks or trust companies.....		16,010 10
Cash on hand not deposited in bank.....		11,914 21
Amount of assets of every description, not included under any of the above heads, viz. :		
Interest accrued.....	\$61,492 57	
Furniture and fixtures.....	15,033 63	
Estimated value of real estate at Tarry- town, over cost .....	31,000 00	
Estimated value of bank buildings and lots over cost.....	8,051 35	
Estimated value of stocks over cost.....	38,785 13	
Individual bonds of trustees bearing seven per cent interest .....	115,000 00	
		269,362 68

\$1,526,919 02

## LIABILITIES.

Amount due depositors.....	\$1,454,958 37
Principal.....	\$1,413,931 53
Interest credited for January 1, 1875..	41,026 84
Other liabilities .....	65,000 00
Demand loan on bond .....	
Excess of assets over liabilities.....	6,960 65
	<u>\$1,526,919 02</u>

## STATISTICAL.

Number of open accounts on the morning of January 1, 1875.....	8,117
Number of accounts opened during the year 1874,	1,562
Number of accounts closed during the year 1874,	1,746
Number of accounts opened since organization..	61,244
Amount deposited not including interest credited during 1874.....	\$680,296 89
Amount deposited including interest credited during the same period .....	761,795 91
Amount withdrawn during the year 1874.....	779,577 59
Amount of interest or profits received or earned during the year 1874.....	118,339 77
Amount of interest credited to depositors for the same period .....	<u>81,499 02</u>
Amount of each semi-annual credit of interest for the year 1874, and when credited :	
July 1 .....	\$40,472 18
January 1, 1875.....	<u>41,026 84</u>

Rate per cent of dividends or interest to depositors the past year, six per cent on sums of \$5,000 or under, five per cent on sums over \$5,000.

By Mr. OLMSTEAD :

Q. Did you make any investigations yourself after the first report of 1873, up to the second report of 1875, with respect to this real estate ?

A. No, sir ; I know nothing about that report in January, 1875 ; that does not go through my hands at all.

Q. It goes to Mr. Ellis ?

A. Yes, sir ; I have nothing to do with that.

Q. Did you have any conversation with Mr. Ellis during this period prior to March 22, 1875, relative to this bank ?



A. I don't remember; my time is pretty much engaged in making examinations, and I report and very seldom see him.

Q. Was he not in the habit of conferring with you personally in regard to the condition of these banks?

A. He was not.

Q. You don't do all your business with him in writing, do you?

A. Most of my communications with him are in writing.

Q. You were subpoenaed to produce what correspondence, if any, you had had with Mr. Ellis, were you not?

A. No, sir.

Q. Have you brought any papers or correspondence?

A. No, sir.

Q. Have you in your possession any letters or correspondence with him relative to this bank?

A. No, sir.

Q. Nothing, except this report?

A. No, sir.

Q. Did you discover whether this real estate was in fee or leasehold? [Objected to unless brought to Mr Ellis' attention.]

Q. Did Mr. Ellis, to your knowledge, make any investigation as to the condition of these assets, and the value of the real estate, whether it was mortgaged or leased?

A. I don't know that he did.

Q. Did any of his deputies, to your knowledge?

A. I don't know.

Q. Then I understand you to say that you had nothing more to do with this bank until you made your examination of March 22 and 23, 1875?

A. I made no examination between the two examinations.

Q. Please look at the book now shown you and state what it is? [Showing witness a book.]

A. It is Mr. Ellis' report to the legislature, March 20, 1876, the annual report of the banking department on savings banks.

Q. And the report on the Third Avenue Savings Bank is on page 330?

A. Yes, sir.

Q. Is that the report made by yourself and Mr. Aldrich?

A. Yes, sir.

Q. You examined the condition of the bank, did you, at that time?

A. Yes, sir.

Q. At whose request, Mr. Ellis'?

A. Yes, sir.

Q. Did you have a written request so to make an examination?

A. It is the ordinary printed commission.

Q. The same form as the other ?

A. The same as the other.

Q. Did you examine any of the officers of the bank under oath at that time ?

A. Yes, sir ; I think I examined the secretary.

By Senator ST. JOHN :

Q. You say you *think* you examined him ?

A. I did examine him ; his name is W. S. Carman.

By Mr. OLMSTEAD :

Q. The bank did not make a report to the bank department in 1874, to your knowledge ?

A. No, sir.

Q. That is the report which you made March 22 and 23, 1875, that you have in your hand, is it ?

A. Yes, sir.

The following is a copy of the report :

## THIRD AVENUE SAVINGS BANK, NEW YORK CITY.

[Examined March 22 and 23, 1875, by George W. Reid and Wm. F. Aldrich.]

ASSETS.	Rate of interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Bonds and mortgages .....	7	.....	....	.....	\$264,900 00
Kansas State bonds .....	7	\$25,000 00	100	\$25,000 00	
Georgia State bonds .....	7	50,000 00	95	47,500 00	
Louisiana State bonds, levee .....	8	100,000 00	27	27,000 00	
Alabama State bonds .....	8	68,500 00	42	28,770 00	
Tennessee State bonds, funding .....	6	55,000 00	48	26,400 00	
Virginia State bonds .....	6	2,000 00	32	640 00	
Jersey City bonds .....	6	43,000 00	95	40,850 00	
Dry Dock, East Broadway and Battery R. R. bonds ...	7	10,000 00	100	10,000 00	206,160 00
Ninety-two acres of land at Tarrytown, \$1,500 .....	....	.....	....	\$138,000 00	
Five houses, East 46th st. (\$20,000), \$150,000; less mortgage, \$42,500 .....	....	.....	....	107,500 00	
House, Fifth avenue and 85th street .....	....	.....	....	85,000 00	
House, East 47th st., \$42,500; less mortgage, \$8,500 ..	....	.....	....	34,000 00	
House, 36 East 49th st., \$42,500; less mortgage, \$14,000,	....	.....	....	28,500 00	
Banking-house, Third avenue and 26th street .....	....	.....	....	180,000 00	
House and lot adjoining .....	....	.....	....	20,000 00	593,000 00

## THIRD AVENUE SAVINGS BANK — (Continued).

ASSETS.	Rate of interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Furniture and fixtures .....	.....	.....	.....	.....	\$15,000 00
Due from former counsel for bond and mortgage collected .....	.....	.....	.....	.....	2,000 00
Cash in vault .....	.....	.....	.....	\$3,520 51	
Cash in Fifth National Bank .....	4	.....	.....	1,885 57	
Cash in Murray Hill Bank .....	4	.....	.....	2,000 00	
Guarantee fund (individual bond of trustees) ..	.....	.....	.....	.....	7,406 08
Interest accrued .....	.....	.....	.....	.....	115,000 00
Deficiency of assets .....	.....	.....	.....	.....	20,420 00
					219,226 81
LIABILITIES.					\$1,443,112 89
Due depositors .....	.....	.....	.....	\$1,414,892 89	
Interest accrued .....	.....	.....	.....	18,000 00	
Due Fifth National Bank .....	.....	.....	.....	8,000 00	
Ground rent and interest on mortgage .....	.....	.....	.....	2,220 00	
					1,443,112 89

# ANNUAL INCOME AND CHARGES THEREON.

INVESTMENTS, ETC.	Rate of interest.	Amount at par.	Revenue.	Totals.
<i>Income.</i>				
Bonds and mortgages.....				
State bonds .....	7	\$266,900 00	\$18,683 00	
Jersey City bonds .....	7	75,000 00	5,250 00	
City railroad bonds.....	6	43,000 00	2,580 00	
Cash in bank.....	7	10,000 00	700 00	
Rents.....	4	4,000 00	160 00	
			22,720 00	\$50,093 00
<i>Charges.</i>				
Interest to depositors .....			\$82,000 00	
Salaries .....			4,340 00	
Internal revenue tax.....			1,300 00	
Other taxes.....			6,244 00	
All other charges.....			1,000 00	
				94,884 00
Deficiency of income.....				\$44,791 00

After estimating the assets at their full market value, there is a deficiency of \$219,000 besides the trustees' guarantee bond of \$115,000 held by the department. The annual deficiency of income is nearly \$45,000, accounted for, in part, by the large amount of State bonds on which the interest has been suspended, and the small income from the real estate.

The original report of the examination is produced by Mr. Chapman.

Q. Please look at the paper now shown you, and state if it is the original of the report that you made on that examination [handing witness the paper] ?

A. Yes, sir.

The following is a copy of the written report:

BANK DEPARTMENT,  
STATE OF NEW YORK. }

: Pursuant to the authority conferred and the duty imposed upon the superintendent of the banking department by chapter 693 of the laws of 1871, I do hereby appoint George W. Reid and William F. Aldrich to examine into the condition, working and affairs generally of the Third Avenue Savings Bank, New York city, and report thereon to me in detail, as soon as practicable.

Given under my hand and official seal at Albany this 15th day of March, 1875.

D. C. ELLIS, *Superintendent.*

*Hon. D. C. Ellis, Superintendent Bank Department :*

Sir — The undersigned, appointed to examine into the condition, working, etc., of the Third Avenue Savings Bank, report :

It will be seen from the schedules annexed that after estimating the assets at full market value there is a deficiency of \$219,000, besides the trustees' guarantee bonds of \$115,000, held by the department.

The annual deficiency of income is nearly \$45,000, accounted for in part by the large amount of State Bonds on which the interest has been suspended, and the small income from the real estate.

Respectfully submitted.

GEO. W. REID,  
W. F. ALDRICH.

Examined March 22 and 23 by G. W. Reid and W. F. Aldrich.

## STATEMENT.

THIRD AVENUE.	Rate of Interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Bonds and mortgages.....	7	.....	....	.....	\$264, 900 00
Kansas State bonds.....	7	\$25, 000	100	\$25, 000 00	
Georgia State bonds.....	7	50, 000	95	47, 500 00	
Louisiana State bonds (levee).....	8	100, 000	27	27, 000 00	
Alabama State bonds.....	8	68, 500	42	28, 770 00	
Tennessee State bonds (funding) .....	6	55, 000	48	26, 400 00	
Virginia State bonds.....	6	2, 000	32	640 00	
Jersey City bonds.....	6	43, 000	95	40, 850 00	
Dry Dock, East Broadway and Battery R. R. bonds.....	7	10, 000	100	10, 000 00	206, 160 00
Ninety-two acres land at Tarrytown, \$1,500.....	....	.....	....	\$138, 000 00	
Five houses East 46th st. (\$30,000), \$150,000; less mortgage \$42,500 .....	....	.....	....	107, 500 00	
House Fifth avenue and 85th street. ....	....	.....	....	85, 000 00	
House East 47th street, \$42,500, less mortgage \$8,500..	....	.....	....	34, 000 00	
House 36 East 49th st., \$42,500, less mortgage \$14,000.	....	.....	....	28, 500 00	
Banking house, Third avenue and 26th street..	....	.....	....	180, 000 00	
House and lot adjoining.....	....	.....	....	20, 000 00	
Furniture and fixtures.....	....	.....	....	.....	593, 000 00
Due from former counsel for bond and mortgage col'd.	....	.....	....	.....	15, 000 00
Cash in vault .....	....	.....	....	\$3, 520 51	2, 000 00

## STATEMENT—(Continued).

THIRD AVENUE.	Rate of Interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Cash in Fifth National Bank. ....	4	.....	....	\$1,885 57	\$7,406 08
Cash in Murray Hill Bank. ....	4	.....	....	2,000 00	115,000 00
Guarantee fund (individual bond of trustees) .....	....	.....	....	.....	20,420 00
Interest accrued.....	....	.....	....	.....	219,226 81
Deficiency of assets.....	....	.....	....	.....	
Due depositors .....	....	.....	....	1,414,892 89	\$1,443,112 89
Interest accrued.....	....	.....	....	18,000 00	
Due Fifth National Bank .....	....	.....	....	8,000 00	
Ground rent and interest on mortgage .....	....	.....	....	2,220 00	1,443,112 89



## STATEMENT—(Continued).

INVESTMENTS.	Rate of interest.	Amount at par.	Revenue	Totals.
<i>Income.</i>				
Bonds and mortgages.....	7	\$266,900 00	\$18,683 00	
State bonds.....	7	75,000 00	5,250 00	
Jersey City bonds.....	6	43,000 00	2,580 00	
City railroad bonds.....	7	10,000 00	700 00	
Cash in bank.....	4	4,000 00	160 00	
Rents.....	.....	.....	22,720 00	\$50,093 00
<i>Charges.</i>				
Interest to depositors.....	.....	.....	\$82,000 00	
Salaries.....	.....	.....	4,340 00	
Internal revenue tax.....	.....	.....	1,300 00	
Other taxes.....	.....	.....	6,244 00	
All other charges.....	.....	.....	1,000 00	94,884 00
Deficiency of income.....	.....	.....	.....	\$44,791 00

Q. I see by this report you find a deficiency of \$219,000 ?

A. Yes, sir.

Q. And you find these a guarantee bond of the trustees, of \$115,000, held by the department ?

A. Yes, sir.

Q. Did you consider that \$115,000 an asset of the bank at that time ?

A. Yes, sir.

Q. Did you inquire into the circumstances under which that bond was given ?

A. I knew all about it.

Q. What were the circumstances under which that bond was given ?

A. When the examination was made, some years previous.

By Mr. CHAPMAN :

Q. Prior to Mr. Ellis' time ?

A. Yes, sir ; there was a deficiency fund of about \$100,000, and Mr. Howell accepted the trustees' bonds for it ; \$15,000 was added when Mr. Green, the former president, returned from Europe.

By Mr. OLMSTEAD :

Q. Did you consider at the time you made this report that that bond was a legitimate asset of the bank ?

[Objected to. Objection sustained.]

Q. Is it the custom of the bank superintendent to receive the bonds of trustees in this city, for the purpose of payment of deficiencies of banks : did you ever know it to be done in any other instance ?

A. Yes, sir.

Q. Where and when ?

A. There has been one received from the People's Savings Bank.

Q. During Mr. Ellis' administration ?

A. No, sir ; previous.

Q. How large was that ?

A. It was originally \$45,000, and I think added to, until it was about \$55,000.

Q. Was not the People's Bank started under Mr. Ellis' administration ?

A. No, sir ; some years previous.

Q. Is there any law, to your knowledge, authorizing such bonds to be received ?

[Objected to. Objection overruled.]

A. I don't know of any, except the general supervision ; I don't know any special law.

By the CHAIRMAN :

Q. Is there any law that you know of that prohibits the taking of a bond to secure the payment of a deficiency, if one exists in a bank ?

A. No, sir.

By Mr. OLMSTEAD :

Q. Is it not the law that if there is a deficiency in a bank, the bank must be wound up ?

[Objected to.]

Q. You state that there is an annual deficiency in income of nearly \$40,000, accounted for in part by the large amounts of State bonds on which the interest has been suspended, and the small income from the real estate, what is the other thing that accounts for that deficiency besides what you have stated ?

A. That the income was not as much as the charges on it owing to the expenses.

Q. How did you inform yourself at the time of this examination of March, 1875, of the value of these assets, as stated by you in your report ?

[Objected to.]

Mr. OLMSTEAD offers to show that Mr. Reed and Mr. Aldrich, at the time of their examination, March 22 and 23, 1875, took no measures whatever to ascertain the true value of the real estate held as assets by this bank, nor of the bonds held by this bank, nor how the deficiency of assets arose, nor why it was that the real estate of the bank had been increased in value from 1874 to 1875, \$52,015.51; and purposes to ask this witness how that increase happened, and why it was made; and proposes to follow it up by showing the condition of the market here, and that these persons must have known that the property was not worth any such sum as that; and proposes to follow it up by showing that the ninety-two acres of land at Tarrytown, which was put in at \$138,000 on March 22, 1875, was sold by the receiver for \$25,000; and that the house on Fifth avenue, that was estimated at \$85,000, was sold at \$33,000; and that the house in Forty-seventh street, which was estimated at \$34,000, was sold for \$5,700; that the banking-house on third avenue and Twenty-sixth street, which was put in at that time at \$180,000, was sold for \$55,000; and that the house adjoining was put in at \$20,000, and sold for \$6,500; that the assets that were estimated at that time at about \$500,000, were not worth any thing like that sum, and were actually sold for about \$97,000, and there was a loss on real estate of over half a million dollars; and that the real estate was sold somewhere near its true value; and proposes to show that Mr. Ellis knew the condition and took no steps to protect the depositors.

Mr. CHAPMAN admits all the facts contained in the first charge, namely, that Mr. Ellis received the examiner's report of March 22, 1875; also, admits the deficiency, and admits that Mr. Ellis did not report the bank to the attorney-general until September, 1875.

The committee decide that the witness may testify as to how he arrived at the results stated in his report.

Question repeated as follows: How did you inform yourself at the time of this examination of March, 1875, of the value of these assets as stated by you in your report?

A. I take the bonds and mortgages as they appear on the books, on the face, examining all the bonds and mortgages separately to see if they foot up the amount that I report; the State and other bonds or stocks I take the current value, selling price, as near as I can, in Wall street; I get the best information I can, where they are not selling from day to day; the real estate, I took it from the entries on the books as they represented to me the property cost, and as near as I could ascertain the actual cost of the property or the value at the time.

By Senator ST. JOHN:

Q. You mean it was the cost to the bank at the time?

A. Yes, sir; the property at Tarrytown, about a month afterward I was there, and from inquiries made I supposed that we had been safe in putting it in at that rate.

Q. At \$1,500 an acre?

A. \$1,500 an acre, yes, sir; we thought our valuation was about correct from all that we could ascertain there.

Q. You made inquiries there, did you?

A. Yes, sir.

By Mr. OLMSTEAD:

Q. Were those inquiries made before or after you made your report?

A. Afterward; about a month afterward.

Q. What caused you to make the inquiry at that time?

A. Because I was up there examining a bank and took the opportunity while on the spot to go over the ground.

Q. Did you examine the five houses in East 46th street?

A. No, sir.

Q. Did you make any inquiry about that, except from the officers of the bank?

A. I don't know that I did.

Q. Did you make any inquiry from any one, except the officers of the bank, as to the value of the other real estate?

A. I don't know that I did.

Q. Did you examine the items of the cost on the books of the bank as to the banking-house?

A. To some extent.

Q. Was that the actual cost of the bank building and lot, \$180,000, as appears from the books of the bank?

A. No, I don't think it was.

Q. Do you know how much it cost?

A. I do not; I don't recollect.

Q. How did you arrive at the value here?

A. From what I learned in the neighborhood, from the amount that it had been reported at for some years back; putting them all together.

Q. Did you conclude, from what you heard from inquiries, that that property was worth \$180,000 at that time?

A. Not that it would sell for that, but that it was worth that to the bank as a banking-house.

Q. Is that the manner in which you estimate the value of property what it is worth to the bank for a banking-house?

A. I think it is.

Q. Then you don't take the actual value of the property, but what you think it is worth to the bank?

A. There is no way unless you sell it.

Q. Isn't the market price the value of it?

A. No, sir; not for a banking-house.

Q. If they want to realize on it as an asset, could they realize on it in any way except by sale?

A. I don't make my examinations to that determination, to close up a bank; I put it in as to what it would reasonably be worth for their purposes.

Q. Don't you estimate its value for the purpose of securing depositors?

A. To a certain extent.

Q. If you do that, how can you estimate it otherwise than its market value; it must be sold in order to secure the depositors, must it not?

A. No, I don't think that would be necessary; if a bank went on it would not be necessary to sell.

Q. The depositors only get their money when the bank fails?

A. The bank had not failed then; it would have to be closed up, of course.

Q. Can you tell what the banking-house was worth outside of the value which you put upon it as banking property?

A. No, sir; I could not.

Q. Did you or did you not consider that large amount of real estate, and its probable value?

A. Of course.

Q. Did you inquire whether it was in fee or leasehold ?

A. I knew it was partly leasehold ; my report shows it.

Q. What part of it was leasehold ?

A. I don't remember ; I should think pretty much all of the five houses ; there was a mortgage on those five houses of \$42,500, a mortgage of \$8,500 on the East Forty-seventh street, and a mortgage of \$14,000 on the East Forty-ninth street, according to my report.

Q. Did you consider at that time that a bank with a deficiency of assets of \$219,226.81 was in a condition to continue business ?

[Objected to.]

Q. Did you or not report to Mr. Ellis whether it was in condition to continue business ?

[Objected to on the ground that the report speaks for itself.]

Q. Did you make any other report to Mr. Ellis in regard to this bank, except the one you refer to ?

A. I don't remember what the report did say.

Q. Did you have any correspondence with Mr. Ellis subsequent to March 22, 1875, in regard to this bank ?

A. I don't remember.

Q. Were there not some mortgages, amounting to \$50,000, that were second mortgages ?

A. They were all represented to be as first mortgages ; I always supposed they were ; do you mean whether there were mortgages back of these ?

Q. Yes ?

A. I never heard any thing about that.

Q. You never heard whether they were first or second mortgages ?

A. No, sir ; I supposed they were first mortgages ; I never heard to the contrary.

Q. Did you never inquire ?

A. I think I did at the time ; it was represented to me as the only lien upon the property.

Q. The mortgages I refer to are on Eighty-fourth street and Fifth avenue, \$25,000 each — no, one is \$25,000 and one is \$29,000 ?

A. I have \$42,500 mortgages on that property.

Q. Did you inform yourself whether they were first or second mortgages ?

A. I understood they were the only lien upon that property ; it was so represented to me ; \$45,000 is the amount I understood ; I never knew about any more ; the \$42,500 is on the East Forty-sixth street property ; I have no mortgages down on the Fifth avenue and Eighty-fourth street property.

By Senator ST. JOHN :

Q. Were these prior incumbrances these mortgages ? Was the property mortgaged that the bank held ?

A. Yes, sir ; as I understand it, they took a larger amount than these 92 acres from Tarrytown, and they wanted to put it into something that they supposed would be productive, and as I understand it, they exchanged it for some of these houses, subject to mortgages.

Q. What I want to get is simply this : whether or not this property which they took as a security was an unincumbered property : it was not a fee ; they held no fee to it, or any thing of that kind, except about the incumbrances ?

A. That is all ; it was leasehold property.

Q. It was also incumbered by mortgage ?

A. Part of it.

Q. Your report shows just what it is ?

A. Yes, sir.

By Mr. OLMSTEAD :

Q. Then I understand there was \$54,000 of second mortgages, on which about \$9,000 was realized ?

A. Yes, sir.

Q. This property was then taken in exchange for Tarrytown property ?

A. So I understand.

By Senator ST. JOHN :

Q. But subject to mortgages ?

A. Yes, sir.

Q. It was incumbered property when they took it ?

A. Yes, sir.

By Mr. CHAPMAN :

Q. From all your examinations you supposed they were first bonds and mortgages ?

A. Yes, sir.

By Mr. OLMSTEAD :

Q. Did you have any conversation with any of the trustees as to the guarantee bond of \$115,000 ?

A. I think I did ; but I don't remember who was there ; but I think there was a few of the trustees in from time to time during the time that we were there.

Q. Did you never have any conversation with Mr. Ellis prior to the dissolution of the bank, about this bank, after the examination in March ?

A. I might have had, I don't remember distinctly.

Q. Can you recollect what was said between you ?

A. I am engaged most of the time examining the banks, so I have very little time to spend otherwise.

Q. Do you know of any reason why this bank, with a deficiency of \$219,226.81, was not dissolved immediately after your report ?

[Objected to on the ground that that will be shown by the report and other witnesses, also on the ground that it is entirely immaterial whether he knows or not. Objection sustained.]

Q. Did you consider from your examination at that time, that the bank was solvent or insolvent ?

[Objected to on the ground that it is immaterial and improper. What he considered is not material. What he returned to Mr. Ellis is already in evidence. Objection overruled.]

A. My report shows that there was a deficiency of \$219,226.81.

Q. Do you mean to say that you considered it insolvent ?

A. I suppose so.

By Senator ST. JOHN :

Q. You considered the bank insolvent ?

A. Yes, sir.

By Mr. OLMSTEAD :

Q. Now I renew the former question and ask you if you know any reason why the bank was allowed to continue to do business ?

[Same objection and ruling.]

Q. Were you directed by the superintendent at any time after March 22, 1875, to make an examination of this bank ?

A. No, sir.

Q. Do you know of any subsequent report made by the bank to the bank department about July 1875 ?

A. No, sir ; I have nothing to do with the reports.

Q. Do you know of any report ?

A. No, sir.

Q. Do you know of any report that was made by the bank to the bank department subsequent to your report — subsequent to March, 1875 ?

A. No, sir.

Q. Did you at any time recommend to Mr. Ellis the closing of this bank ?

A. I don't know that I did ; it was not my duty to recommend to him what to do.

Q. It was only your duty to examine the assets and report them ?

A. Yes, sir ; that was all.



Q. Did you consider the loans of the bank that were call loans, loans of the available fund made upon securities which were doubtful in their character and uncertain in their value or not?

A. They had no call notes when I examined it.

Q. Do you know then, what the report to the superintendent made in the year 1875, on page 19, means, referring to loans of the available fund of this bank?

A. For loans made years before I suppose; they had none when I examined it.

Q. You understood there were no loans at the time you made your examination?

A. No call loans at all.

Q. Have you been examiner during all the time of Mr. Ellis' superintendency?

A. Yes, sir.

Q. You don't know of any loans of that character?

A. Does that refer to the Third Avenue Savings Bank?

Q. Yes?

A. The loans of the available fund were made upon securities as in the case of the Third Avenue Bank; he refers to these Pacific Mail  
 . . . loans made years before he came into office.

Q. For which this real estate was taken in lieu?

A. Yes, sir.

Q. The real estate took the place of these loans?

A. Yes, sir; but made years before he came into the department.

By Mr. CHAPMAN:

Q. That exchange was made before he came into the department, wasn't it?

A. Yes, sir.

By Mr. OLMSTEAD:

Q. Have you got the bond given to the trustees?

A. I never had it; it is at Albany.

Q. Is that note which is at the bottom of the report, a note attached by you — made by you?

A. I presume it is taken from that report; that is done at Albany.

Q. The statement at the bottom of page 330, of the report of 1876, was not made by you, but added at Albany?

A. No, I don't say that; it was taken from my report; it is probably an extract from my report.

By Senator ST. JOHN:

Q. You say in both of these examinations which you made, you put the secretary of the bank under an examination ?

A. Yes, sir ; under oath.

Q. Did you take a written statement ?

A. No, sir ; I never did that ; I never have, except in one or two instances.

Q. What did that develop in regard to that bank ; what did the examinations develop as to the business of the bank — you examined them as to the securities and assets ?

A. Yes, sir ; and I got the amounts from him as I have it here, and then there are three or four pages at the close of the report as to the working of the bank — how they do their business.

Q. Did you take any trouble to investigate him in regard to the real estate, and these depreciated bonds — did you take his opinion or views ?

A. Not much ; I thought I knew about as much as they did, because they were both new secretaries, just come in ; Mr. Carman had only been there a week or two, and Mr. Morgan only a short time.

Q. About all you found out from them was, that they had such securities as you reported ?

A. Yes, sir.

Q. You got nothing further ?

A. No, sir.

Q. What I want to get at is whether you elicited any thing in your examination, which would go to show that the bank was unsound or insolvent to do business ?

A. The secretaries at each examination, and the trustees that I met there, expressed themselves very hopeful of the future ; their deposits were increasing.

By Mr. OLMSTEAD:

Q. Was not Mr. Carman secretary when the January report was made ?

A. He came in afterward.

Q. Didn't he sign the January report ?

A. He may have signed it, but he knew nothing about it.

Q. He swore to it ?

A. He swore to it, but he told me afterward he knew nothing about it ; he put his official name there ; that is all ; he took it as the report of the clerks.

By Mr. CHAPMAN:

Q. May you not be mistaken in regard to his not being there in January ; didn't he come in in December ?

A. I am not certain; he had only been there a short time; it may have been in December.

By Mr. OLMSTEAD:

Q. Did you consider it sufficient for you to make a report upon the testimony of a man who stated he knew nothing about the affairs of the bank?

A. I didn't see it for sometime after.

Q. You made the March report?

A. Yes, sir.

Q. Did he tell you this thing before or after the March report?

A. I don't remember; it came up incidentally.

Q. He is the man whose affidavit you took?

A. Afterward, because he had had an opportunity to know something about it then.

By Mr. CHAPMAN:

Q. I see that these charges, the second item of charge reads as follows: "Mr. Mallon alleges further, that an additional advance of \$100,000 had been covered up by adding that amount to the cost of the banking-house." I will now ask you what you put the cost of the banking-house in at, on your examination in 1873?

A. At \$180,000.

Q. What did you estimate it at in 1875?

A. The same.

Q. And in 1873, you made your examination the very next month after Mr. Ellis came into the office?

A. Yes, sir.

Q. And in 1875, the examination which you made was the one on which the application was made to the attorney-general to close it up?

A. Yes, sir; the last report I made.

Q. Where, then, is the increase of \$100,000 during Mr. Ellis' term?

A. Between my reports there is none; I reported the same amount.

Q. So if there had been any covering up of a hundred thousand dollars, it had been prior to Mr. Ellis' time?

A. Certainly.

Q. By whom were you appointed?

A. Mr. Howell.

Q. Bank superintendent before Mr. Ellis?

A. Yes, sir.

Q. From the time of your report in March, 1873, to the time of your report in March, 1875, is there any increase in the value of the real estate?

A. April, 1873, to March, 1875, I made an increase; I see the dif-

ference here is \$8,300 ; that appears to be added on the five houses in East 46th street ; the other items were the same.

Q. On the market value ?

A. Yes, sir.

Q. Were you here the other day when the witnesses were sworn as to when the depreciation as to the value of real estate commenced ?

A. Yes, sir.

Q. When did the depreciation of real estate commence ?

A. The latter part of 1874.

Q. And the fore part of 1875 ?

A. Yes, sir.

Q. No material depreciation until after long toward the latter part of 1874, and the fore part of 1875 ?

A. No, sir.

Q. When was the report of 1875 filed ?

A. March 25, 1875.

By Mr. OLMSTEAD :

Q. I understood you to say that you informed yourself as to the value of this real estate, partly by examining the cost of the property on the books of the bank ?

A. And through statements also.

Q. And from an examination of the books ?

A. Yes, sir.

Q. Do you not know that the bank book shows that the cost of the banking-house and lot cost about \$72,000, and that the trustees had added \$100,000 of fictitious value ?

A. I never suspected or heard any thing of it until sometime after the appointment of a receiver ; the valuation of the banking-house was about as we had kept it all along.

Q. You did not discover that they had added \$100,000 to the actual cost, in order to make it appear as a larger asset ?

A. No, sir ; I heard that afterward.

Q. You heard it had been done prior to Mr. Ellis' time ?

A. Yes, sir ; years before.

Q. Do you mean to say that in your opinion there was no decrease of the valuation of real estate in this city between 1872 and 1875 ?

A. I don't think there was.

By Senator ST. JOHN :

Q. I was speaking about the reports of the increased value of this real estate ; when I spoke about it, I did not refer to your reports ; I referred to the reports made by the bank itself, to the superintendent of the bank department ; therefore, I say that the figures which I

made was shown to be entirely correct in regard to it, that the real estate of the bank in 1873, was \$546,551 ; at the time that report was made, I don't know who were their officers — yes, Decker and Morgan were the people who made that report ; they then show an excess of assets over liabilities of \$15,659 ; the next year they reported that, as I stated before, at \$579,651, and added thereby \$33,100 to their estimated value of real estate, and having done that, it left them according to their accounts, taking their statement, an access of liabilities of \$6,973 ; by adding \$33,000 to their real estate, they were still able to show to the department on their returns, a balance of assets over liabilities of \$6,973 ; the next thing comes in in those same reports in 1875 ; I don't know whether you paid any attention to those reports or not ?

A. I have looked them over, but I have not the items ; I did not examine them ; I have nothing to do with them.

Q. The next report was made \$598,567, deducting the valuation the year before — of 1874, \$579,651 — it made an additional increase of this \$18,916 ; I say that the reports made to the department in those two years show an increase of \$52,015.21 put on their real estate ?

A. Yes, sir.

By Mr. CHAPMAN :

Q. This first report was made by the former superintendent, and before Mr. Ellis came into the office ?

A. Yes, sir.

Q. Whether after that report was made the mortgages had been lessened before the subsequent reports were made you did not know ?

A. No, sir.

Q. If the mortgages had been lessened by payments being made upon them, that would account for the increase in the value of the real estate when it came to be reported to Mr. Ellis, would it not ?

A. Yes, sir.

Q. If this report of 1875, to which your attention was called by Mr. Olmstead, in which an allusion is made to loans of the available fund being made upon securities doubtful in their character, Mr. Ellis was speaking in opposition to that kind of loans, was he not, in general terms ?

A. Yes, sir ; I suppose so.

Q. This is the connection in which that allusion is made : " This unhealthy competition in securing deposits manifested itself in various forms, but always in the direction tending to the ultimate injury of the bank. It induces speculative loans and investments which promise large returns. Officers were tempted in making them to the

very verge of the legal limit, and in some cases beyond it. Loans of the 'available fund' were made upon securities, as in the case of the Third Avenue, doubtful in their character and uncertain in their value, subject to great fluctuations in the market and never proper securities for the loans of trust funds, which are of all moneys the most sacred." Those loans that you alluded to had been a long time prior to his time as superintendent?

A. Yes, sir.

By Mr. OLMSTEAD:

Q. You have placed in your list of assets an interest accrued of \$20,420 in your return of March 22d; is that the estimated value of the interest coupons attached to the bonds, or the par amount of the interest?

A. That is the interest accrued on the bonds and mortgages and the State and other securities, where the interest is not included; for instance, it is not estimated on these State bonds, because they are always sold "flat," as it is called.

Q. If the bonds depreciated, the coupons would not be considered worth so much?

A. I never computed interest on bonds where they were repudiated.

Q. I observe on some of these reports that the cost of the real estate is stated, and also the market value; are you in the habit of making a statement in regard to the real estate in that way?

A. Sometimes.

Q. Did you in regard to this bank in either case?

A. No, sir.

By Mr. CHAPMAN:

Q. By the law of 1875 they were required to return their real estate at cost?

A. Not to exceed cost.

Q. Whether under the law of 1875 any report was due from the bank in July?

A. No, sir.

Q. The semi-annual report ceased to be given?

A. Yes, sir.

*Samuel H. Hurd*, being duly sworn, testifies:

By Mr. OLMSTEAD:

Q. Do you reside in this city?

A. Yes, sir.

Q. What is your business?

A. I am receiver of the Third Avenue Savings Bank.

Q. When were you appointed such receiver ?

A. I was appointed the 13th of November, 1875 ; I took possession the 6th of December, 1875.

Q. Have you in your possession the books of the bank ?

A. Yes, sir.

Q. Have you brought any of them with you ?

A. I brought the minutes, as specified on the subpoena.

[Witness produces books.]

Q. Those are the minutes of the board of trustees of the bank ?

A. Yes, sir ; from 1867.

Q. To the time you took possession ?

A. Yes, sir.

Mr. OLMSTEAD offers in evidence a resolution of the trustees, which is a resolution taken on the last meeting entered on the minutes, on September 28, 1875.

[Objected to, on the ground that it has not been brought to Mr. Ellis' attention in any way, and that he never saw it. Also, on the ground that it does not contradict in any way the allegation made by Mr. Ellis in his report, which is alleged to be false.]

Q. You received these books from the bank yourself ?

A. No, sir.

Q. Who did you receive them from ?

A. From Mr. Carman.

Q. Yourself ?

A. Yes, sir.

Q. Personally ?

A. Yes, sir.

Q. As the books of the bank ?

A. Yes, sir ; they were in a little box, and he unlocked it and says to me, " those are the minutes."

Mr. CHAPMAN moves to strike out the answer.

Q. Were they given to you in accordance with the order of the court ?

A. Yes, sir.

[Objected to ; the order itself should be produced.]

Q. Do you know the signature of Mr. Carman ?

A. Yes, sir.

Q. Is that Mr. Carman's signature ? [Handing book to witness.]

A. Yes, sir.

Q. He was the secretary of the bank at that time ?

A. He was a receiver when I went there ; I didn't know him as secretary of the bank.

Mr. OLMSTEAD renews his offer of the resolution.

[Objected to on the same ground.]

[The resolution is admitted, the chairman stating to Mr. Chapman that if he wants further evidence in regard to its authenticity, the committee will allow him to call for it.]

The resolution is as follows: "At a meeting of the board of trustees of the Third Avenue Savings Bank, held at the banking-house on Tuesday, September 28, 1875, at 7½ P. M., were present—Daniel Bates, president; Messrs. Brums, Moulton, Seiter, B. A. Lyon, Hartt, Peeg, Ford and Harrison.

On motion of Mr. Brums, and seconded by Mr. Ford, the following resolution was unanimously adopted:

WHEREAS, The recent pecuniary embarrassment of this bank, arising from the long-continued stagnation of business, and the consequent continued depreciation in the value of the securities and real estate held by the bank, render it evident that the bank cannot safely continue business or offer a reasonable security to those who deal with it, therefore,

*Resolved*, That it is expedient that the bank be dissolved and its business affairs wound up.

*Resolved*, That the officers of the bank be authorized to take the advice of the bank superintendent upon the best mode of effecting such dissolution, and that they be empowered to take all such steps in the matters as they may find for the best interest of the bank and its depositors.

*Resolved*, That any new moneys hereafter received on deposit be kept separate and in trust for those making such deposits.

W. S. CARMAN,  
*Secretary.*"

Marked "Exhibit No. 1, May 14, 1877, S. B. H."

Q. Is that the signature of Mr. Carman to the minutes of the meeting of April 14, 1876? [Showing book to witness.]

A. Yes, sir.

Mr. OLMSTEAD offers such portion of this resolution in evidence as is proper to prove that John H. Lyon was the president of the bank and resigned on that day.

[Objected to, on the ground that it has not been brought to Mr. Ellis' attention. Objection sustained.]

Mr. OLMSTEAD offers to show from the minutes of the bank that on July 17, 1874, the officers passed a resolution that in view of the fact of the annexation of a large portion of Westchester county, the valuation of the real estate at Tarrytown should be made up to \$169,000.

[Objected to on the same ground as above stated. Objection sustained.]



Q. How many new accounts were opened in the bank from March 22, 1875, to September 28, 1875 ?

[Objected to. Objection overruled.]

A. Seven hundred and nineteen new accounts.

Q. How much was deposited during that period ?

[Objected to. Objection overruled.]

A. I could not tell of my own knowledge ; the clerk had charge of them.

Q. Who was your clerk ?

A. Mr. Sellers.

Q. He has charge of the books for you ?

A. Yes, sir.

Q. As an accountant ?

A. Yes, sir.

Q. Have you sold any of the assets of this bank ?

A. Yes, sir ; I have realized upon the assets.

Q. State what assets you have sold, and what you have realized ?

[Objected to. Objection sustained.]

Mr. OLMSTEAD offers to show that the receiver has realized on the bonds and mortgages, \$75,139.75. From interest, \$2,874.40. From the sale of bonds, the amount of bonds which stood on the books at \$176,762.38, he realized \$70,638.29. From the real estate which stood on the books at \$659,014.51, he realized at public sale \$137,945.66. The sale of the fixtures, \$1,059.29. The total amount that he realized from the assets of this bank was \$303,916.11. Some bonds and mortgages remain uncollected, and some have been collected since the report.

[Objected to. Objection sustained.]

Q. Are you acquainted with the general value of these assets in 1875 ?

A. No ; I knew nothing about the assets until December, 1875.

Q. That is when you took possession of the bank ?

A. Yes, sir ; I knew nothing about it until I took possession of the bank ; nothing definitely.

By Mr. CHAPMAN :

Q. I suppose there were, during this time from March to September, some old accounts that were closed ?

A. I suppose there were.

Q. There were more closed during that time than there were new ones opened, were there not ?

A. I don't know; I cannot say whether it was so or not; there was more money drawn out in a general way than there was deposited.

Q. They were gradually drawing out of the bank?

A. Yes, sir.

By Mr. OLMSTEAD:

Q. What dividends did you pay on these assets?

[Objected to. •Objection sustained.]

Q. Have you collected any thing on the trustee bond of \$115,000?

[Objected to. Objection sustained.]

Mr. Olmstead offers to show that this bond made by the trustees to secure the deficiency are in litigation, having been sued, and that all save one person, who signed the bond, have filed their complaint denying their liability; that Spencer K. Green, one of the bondsmen, by his answer, denies the power of the bank to make such an agreement, or accept such a bond and claims, there was no consideration; William A. Darling claims that the bank was insolvent at the time the bond was signed, and that fact was well known to Mr. Howell, the superintendent of the bank department, and claims there was no consideration; Mr. Lyon, the president of the bank, also denies there was any consideration; David Morgan claims to have signed an illegal agreement with the bank, and that there was no consideration; Richard Kelley says that the bond was merely nominal and formal, without legal obligation or force; so that a better showing of the apparent assets would appear; James Owen says, at the time of giving the bond, the bank was insolvent, and the assets and property insufficient to pay the depositors, and the fact was well known to the superintendent of banks at that time, and that the bond was made in pursuance of an illegal agreement between the bank and the superintendent to evade the law.

[Objected to. Objection sustained.]

A. Sellers, being duly sworn, testified as follows:

By Mr. OLMSTEAD:

Q. What is your position?

A. I am Mr. Hurd's clerk in the Third Avenue Savings Bank since he has been receiver.

Q. You have had charge of all the books and papers?

A. Yes, sir; under Mr. Hurd's direction.

Q. Can you state how much money was deposited in the Third Avenue Savings Bank between March 22, 1875, and September 28, 1875?

A. I can.

Q. How much was it?

A. By the books \$316,079.81.

Q. Can you tell how much money remained in the bank on deposit on September 28th?

A. Do you mean what was the total amount remaining in the bank?

Q. Yes.

A. One million, three hundred and sixty odd thousand dollars; I don't remember exactly.

Q. Remaining in the bank on September 28th?

A. Yes, sir; the amount to the credit of the individual depositors; these are the figures from the books of the bank.

Q. How much cash was there in the bank at the time the receiver took possession?

[Objected to. Objection sustained.]

Q. How much did Mr. Hurd as receiver receive from W. S. Carman as receiver?

[Objected to.]

Mr. Olmstead offers to show that he received \$7,621.79 as receiver.

[Objected to, on the ground that it was some four or five months after Mr. Ellis handed it over to the attorney-general. Objection sustained.]

Q. Have you discovered in investigating the books, any evidence of robberies by the clerks or officers of the bank, and if so what?

[Objected to. Sustained.]

Q. How much was the cash carried along in the books; was it not short cash all the time?

[Objected to.]

Mr. Olmstead offers to prove that during the time that Mr. Ellis was superintendent, that they carried \$60,000 short cash, pretending to have that amount of cash, when they did not have it.

[Objected to, on the ground that it was not brought to Mr. Ellis' knowledge.]

Mr. Olmstead offers to show that the difference between the general ledger and the deposit ledger was \$66,000, and it was carried along during Mr. Ellis' time.

[Objected to. Objection sustained.]

By Mr. CHAPMAN:

Q. There was more drawn out than was deposited between March and September, was there not?

A. Yes, sir.

Q. Do you know whether there was a greater number of accounts closed than new ones opened during that time?

A. I cannot state positively.

Q. Your impression would be, that there was, would it not?

A. No, sir; my impression is, there was more new accounts opened than old ones closed.

Q. But a larger amount taken out than put in?

A. Yes, sir.

By Mr. OLMSTEAD:

Q. Were those moneys that were drawn out generally moneys of the new depositors or old depositors?

A. I could tell you to-morrow, but not to-day; there is a man at work on that.

*Wm. F. Aldrich*, being duly sworn, testifies:

By Mr. OLMSTEAD:

Q. Were you one of the examiners of the bank?

A. Yes, sir.

Q. Appointed by Mr. Ellis?

A. Yes, sir.

Q. You examined with Mr. Reid the Third Avenue Savings Bank on March 22 and 23, 1875?

A. Yes, sir.

Q. How long were you conducting that examination?

A. I think we were there two days.

Q. Did you go through all the securities?

A. Yes, sir.

Q. How did you estimate the value of the real estate?

A. In that respect we took the old estimate, because we found there was so large a deficiency, we thought that would take a long time to look up the estimates or make a new estimate, and we took the estimate of a former examination.

Q. You thought the deficiency was very large?

A. We found it was so large that it was not necessary to make any further examination in reference to the real estate, so we didn't spend any further time on it.

Q. Did you ascertain at that time or know at that time, that the trustees had added a hundred thousand dollars to the original cost of the banking-house?

A. No, sir.

Q. Did you learn it afterward?

A. I saw the report of this McDonald, he alleged that.

Q. Did you consider the bank at that time wholly insolvent?

[Objected to. Objection sustained.]

Q. From what you saw of the assets of the bank at that time and

from what you learned of the value of those assets and of the liabilities of the bank, did you think that the bank could continue its business with safety to its depositors?

[Objected to. Sustained.]

By Mr. CHAPMAN :

Q. Did you report to Mr. Ellis any thing except what was contained in that report ?

[Objected to.]

By Mr. OLMSTEAD :

Q. Did you make any report to Mr. Ellis ?

A. I sent the report.

Q. Did you make any other report except that ?

A. No, sir.

Q. Did you have any communication with Mr. Ellis other than that report ?

A. No, sir.

Q. Did you send him letters in regard to it, or write him in respect to it ?

A. I don't recollect that I did.

Q. Are you in the habit of meeting Mr. Ellis ?

A. Not very often.

Q. You are not in the habit of conversing with him about the banks of the city ?

A. No, sir ; that is about the last bank that I examined.

Q. The only way that he knew of your opinion of the bank, was the official statement that you sent him ?

A. Yes, sir ; that I thought was sufficient.

By Mr. CHAPMAN :

Q. That was as far as this bank was concerned ?

A. Yes, sir.

Q. You examined far enough in there to find this deficiency and did not consider it necessary to go any further in the examination ?

A. Yes, sir.

Q. And reported that fact to the bank superintendent ?

A. Yes, sir ; we found this deficiency, and we would not go on any further, and we concluded to make the report.

*George Heucken*, sworn :

By Mr. OLMSTEAD :

Q. Were you present at the last meeting of the board of trustees ?

A. I think I was.

Q. Do you know the date ?\*

A. September 28th, 1875.

Q. Look at that resolution and say if that was passed at that time ?

[Handing copy of resolution to witness.]

A. I don't see my name mentioned here among the members present, therefore I cannot say whether the resolution was passed or not ; I was present at a meeting in September, but I cannot positively say whether it was this time or not.

Adjourned to May 15, 1877, at 10 A. M.

NEW YORK, *May 15, 1877.*

The committee met at 10 A. M., pursuant to adjournment.

Present — Senators COLEMAN (the chairman), WELLMAN and ST. JOHN :

Mr. OLMSTEAD offers in evidence the report of De Witt C. Ellis to the legislature, dated March 30, 1876, contained in the annual report to the bank department, commencing on page 5.

## REPORT.

### STATE OF NEW YORK :

BANKING DEPARTMENT, }  
ALBANY, *March 30, 1876.* }

*To the Honorable the Legislature of the State of New York :*

The legislature, at its last session, incorporated one savings bank, to wit :

The Twelfth Ward Savings Bank in the city of New York.

During the year 1875 the following savings banks were organized, under charters granted by the legislature, and reported to the department :

Gloversville Savings Bank, incorporated in 1873.

Kingston Savings Bank, incorporated in 1874.

Newtown Savings Bank, incorporated in 1874.

St. John's Savings Bank of Fordham, incorporated in 1874.

Under the provisions of the general law, passed by the legislature of 1875, four savings banks have been organized, but none of them had actually begun to receive deposits on the 1st of January, 1876 ; hence they did not report at that time. They are :

The Warwick Savings Bank, Warwick, July 27.

The Long Island City Savings Bank, Long Island City, November 3.  
The Bedford Savings Bank, December 11.

Roslyn Savings Bank of Roslyn, December 17.

Two other applications for the requisite authorization to organize savings banks were filed in the department during the year. They are:

The Watertown Savings Bank.

The Stuyvesant Savings Bank of the city of Brooklyn.

After making careful and extended inquiry respecting the necessity and the opportunity for a new savings bank in the city of Watertown, I was constrained to disapprove the application for a new institution there.

The Jefferson County Savings Bank, which is located in Watertown, is a prudently managed and prosperous bank. Although it is small, it affords all the accommodation that the community can expect from such an institution. As there is no need of a new savings bank for public convenience or advantage, and as the establishment of another would divide a patronage none too large to maintain one in a sound and improving condition, I disapproved the application for authority to create such a bank, on the 23d of August.

The applications for the Bedford Savings Bank, and the Stuyvesant Savings Bank were antagonistic. Both the proposed banks would cover the same ground, the Twenty-fifth Ward, in Brooklyn. While that portion of the city is growing, and the testimony indicated that it is a proper field for a new savings bank, where none now is located, it became obvious that two should not be authorized. The application for the Bedford was filed October 14th; that for the Stuyvesant was filed October 16th. Other things being equal, the application of the Bedford was fairly entitled to precedence by priority. Some feeling was shown by applicants in their contest, but the weight of evidence and of influence among impartial and respectable citizens of Brooklyn favored the application for the Bedford Savings Bank. Therefore, on the 11th of December I granted the certificate of authorization to applicants for it, at the same time disapproving the solicitation for the Stuyvesant Savings Bank.

The Mutual Savings Bank, of Auburn, proposed to change its name to the Cayuga County Savings Bank, which application I approved on the 17th of June, pursuant to the general act of 1875.

Two savings banks voluntarily closed during the year, and paid their depositors. Neither of them ever had enough business to encourage it to go on. They are: The People's Savings Bank, of Amsterdam; the Orleans Savings Bank, of Albion.

Five savings banks in the city of New York failed during the year,

to wit: The Third Avenue Savings Bank, The People's Savings Bank, the Central Park Savings Bank, the Mutual Benefit Savings Bank, the German Up-town Savings Bank. These failures will be treated more fully elsewhere.

The whole number of savings institutions reported to this department January 1, 1875, was 158. The whole number reporting January 1, 1876, was 154.



## THE CONDITION OF THE SAVINGS BANKS.

*The comparative resources and liabilities of the banks January 1, 1875, and January 1, 1876, are shown by the following summary of reports.*

RESOURCES.	Jan. 1, 1875.	Jan. 1, 1876.	Decrease.	Increase.
Bonds and mortgages .....	\$116,639,852 00	\$122,147,684 00	.....	\$5,507,832
Stock investments .....	164,548,656 00	176,852,872 00	.....	12,304,216
Amount loaned on public stock .....	3,238,209 00	5,054,855 00	.....	1,816,646
Amount reported as invested in real estate .....	8,598,861 00	9,595,173 00	.....	996,312
Cash on deposit in banks or trust companies .....	19,300,085 00	17,197,946 00	\$2,102,139	.....
Cash on hand not deposited in banks .....	5,153,252 00	5,598,291 00	.....	445,039
All other assets (including loans on collaterals) ..	11,095,657 00	17,349,515 00	.....	6,253,858
LIABILITIES.				
Amount due depositors .....	\$328,574,572 00	\$353,796,336 00	.....	.....
Other liabilities .....	\$303,935,649 00	\$319,260,202 00	.....	\$15,324,553
Excess of assets over liabilities .....	328,677 00	846,433 00	.....	517,756
	24,310,246 00	33,689,701 00	.....	9,379,455
STATISTICAL.				
Number of institutions reporting .....	\$328,574,572 00	\$353,796,336 00	.....	.....
Number of open accounts .....	158	154	4	.....
Number of accounts opened during the last year ..	872,498	859,738	\$12,760	.....
Number of accounts closed during the last year ..	263,356	204,278	59,078	.....
	166,725	188,569	.....	21,844

\*The several banks which failed had 14,007 depositors January 1, 1875. The losses of these makes a heavy diminution in the aggregate.

## THE CONDITION OF THE SAVINGS BANK — (Continued.)

RESOURCES.	Jan. 1, 1875.		Jan. 1, 1876.		Decrease.	Increase.
Amount deposited, including interest credited during the last year .....	\$167,040,908 00		\$162,592,113 00		\$4,448,795	.....
Amount withdrawn during the last year .....	148,743,231 00		143,628,957 00		5,114,274	.....
Amount of interest credited to depositors during the last year .....	16,139,949 00		16,990,284 00		.....	\$850,335
Average of each deposit or account .....	348 35		371 35		.....	23

## THE BUSINESS OF THE YEAR.

This exhibit is not altogether satisfactory. There is a material increase in the aggregate deposits, but the number of depositors has not proportionally advanced. For the first time since 1862, there is a diminution in the number of depositors, as compared with the previous year. In 1862 the decline in the number of depositors was very small, only 182, while deposits decreased during that year more than \$3,000,000. Now, a large increase in deposits is accompanied by a reduction of nearly 13,000 in depositors.

The loss in the latter is partially explained by the failure of savings banks in New York city, but the above exhibit justifies the conclusion that the savings banks are, temporarily at least, attracting a new class of depositors. The conditions which I refer to are the results of the stagnation in business. A class of people who have funds, and who have hitherto employed them in some other way with profit, now find no opportunity so safe and remunerative as depositing them in savings banks. It is this class of deposits, probably, which swell the present aggregate.

The average deposit has advanced \$23 in a year, which is the largest annual gain in several years.

The deposit in savings bank of funds, which the depression in business has diverted from the channel where they have usually moved, is not likely to be permanent. When the causes which produce this effect are removed, as they must be, this kind of deposits will return to their former field. Their temporary employment in savings banks is no aid to these institutions, either present or prospective. The savings banks do not find it easy to invest or loan their deposits upon legal and safe securities, hence this diversion of money to them, from possessors of it who see no other so safe and advantageous investment, rather embarrasses the banks than helps them. When more activity arises in business, and a sharper demand for money is heard, the very class who now, for the first time, seek the savings banks for profit, will hear the call and will promptly respond to it. This condition, it is to be hoped, is casual and transient. The best safeguard that can be afforded to savings banks against injury from the thoroughly selfish use of them must be found in the sagacity and discretion of trustees. By prudent and judicious rules they may check the operations of the capitalist class in the savings banks.

## EXPENSES OF SAVINGS BANKS.

The difficulties which beset most of the savings banks in the present situation of affairs are two-fold. They have a superabundance of money offered for deposit; they are perplexed to find safe and lawful

investments for it. These embarrassments require the most economical management in the operations of the banks, unless they have a large surplus whose income they can fall back upon. To pay interest to depositors, to meet necessary expenses, and still to have their balance on the right side, is a problem that some banks find it quite hard to solve. It seems just now to be quite in order for the trustees of savings banks to examine with the most careful scrutiny the expenses of their institutions, and to institute the most rigorous economy which is compatible with efficiency and fidelity in their operations.

There is a prevalent public opinion in the metropolis of the State that the salaries of municipal officers in that city may well be reduced. If this opinion is sound, what shall be said of the trustees of a savings bank paying an annual salary to one of its officers as large as that of the mayor of the city, and then increasing it by an additional percentage? The amount so paid to an individual officer almost equals the total salaries paid in the bank department.

It is impossible to regulate the expenses of the several savings institutions by any law, or any general rule. The matter is one that lies within the province of the trustees. The examination of the expenditures by savings banks shows a great difference in the economical opinions which prevail among this class of savings bank officers. The crisis through which the savings banks are passing, and regard for the interests of the depositors ought, however, to impress upon all trustees a deep sense of their *duty*, as the voluntary custodians of other men's money, to maintain an intelligent and discriminating frugality in expenditures, which will most promote the pecuniary claims of depositors, as well as set before them a constant and worthy example for imitation in their personal business transactions.

#### INSOLVENT SAVINGS BANKS.

Since the date of my last annual report, six savings banks in the city of New York have been placed in the hands of receivers, and are now in process of liquidation. The following is a list of their names, with a statement of their assets and liabilities respectively, at the time of their failure:

##### THIRD AVENUE SAVINGS BANK.

###### *Assets.*

Bonds and mortgages.....	\$184,900 00
Bond and mortgage collected by W. B. Harrison, attorney .....	2,000 00

Bond and mortgage, Dimock, under the decree .....	\$87,671 00	
Law expenses, etc.....	11,243 00	
Taxes on property .....	9,111 00	
Money deposited with city of Elizabeth to pay assessment .....	25,000 00	
	<hr/>	\$113,025 00
Stock investments.....		178,408 00
Real estate.....		659,014 51
Cash on hand .....	\$3,737 48	
Cash on hand, special in envelopes.....	2,991 36	
	<hr/>	6,728 84
Guarantee bonds of directors.....		115,000 00
		<hr/>
		\$1,279,076 35

*Liabilities.*

Due depositors .....	\$1,367,579 82	
Due depositors special in envelopes..	2,991 36	
	<hr/>	1,370,571 18
Deficiency.....		<hr/>
		\$91,494 83

## PEOPLE'S SAVINGS BANK.

*Assets.*

Bonds and mortgages .....	\$81,300 00	
Stock investments.....	800 00	
Amount loaned on collaterals..	2,428 18	
Cash on hand.....	1,467 05	
Cash in banks .....	7,659 60	
Interest accrued .....	1,947 00	
Safe and fixtures.....	3,000 00	
Bonds of trustees .....	58,750 00	
	<hr/>	\$157,351 83

*Liabilities.*

Due depositors.....	\$196,431 79	
Interest accrued .....	3,700 00	
	<hr/>	200,131 79
Deficiency.....		<hr/>
		\$42,779 96

## MUTUAL BENEFIT SAVINGS BANK.

*Assets.*

Bonds and mortgages.....	\$126,429 63
Stock investments.....	196,820 00
Loans and collaterals.....	23,107 65
Real estate.....	52,568 07
Cash on hand..	7,185 45
Interest accrued (estimated).....	10,000 00
Safe and furniture.....	1,000 90
	<hr/>
	\$417.110 80

*Liabilities.*

Due depositors (about).....	440,000 00
	<hr/>
Deficiency .....	\$22,889 20
	<hr/> <hr/>

## CENTRAL PARK SAVINGS BANK.

*Liabilities.*

Amount due depositors (about).....	\$40,000 00
	<hr/> <hr/>

*Assets.*

A nominal interest in their bank building over the mortgage on it.....	\$40,000 00
	<hr/> <hr/>

The building cost, as stated, \$75,000. The mortgage is \$35,000.

## GERMAN UP-TOWN SAVINGS BANK.

*Assets.*

Bonds and mortgages.....	\$294,724 90
Stock investments.....	281,100 69
Real estate account.....	180,000 00
Loans on collaterals.....	59,982 29
Cash account.....	146,856 85
Interest unpaid.....	5,295 47
Office furniture and fixtures account.....	15,000 00
Profit and loss account.....	7,554 64
Expense account.....	7,107 65
	<hr/>
	\$997,622 49
	<hr/> <hr/>

*Liabilities.*

Due depositors.....	\$836,388 11
Rent account.....	5,908 30
Interest account.....	36,356 08
D. A. Moran.....	53,970 00
Second National Bank.....	65,000 00
	<hr/>
	\$997,622 49
	<hr/>

## SECURITY SAVINGS BANK.

Failed since January 1, 1876.

*Assets.*

Bonds and mortgages.....	\$202,615 00
Stock investments.....	41,133 37
Real estate.....	95,400 36
Loaned on public stocks.....	1,500 00
Cash in banks or trust companies.....	27,635 70
Cash on hand.....	2,508 28
Excess of market value of stock investments over cost..	2,366 63
Accrued interest.....	5,159 39
Rents.....	355 00
	<hr/>
	\$378,673 73

*Liabilities.*

Due depositors.....	\$374,449 06
Depreciation in real estate.....	31,400 36
	<hr/>
	405,849 42
	<hr/>
Deficiency.....	\$27,175 69
	<hr/>

The Mutual Benefit was located on Nassau street. All the others were located on the Third avenue.

The Third Avenue Savings Bank was incorporated in 1854, the German Up-town in 1866, the People's and Central Park in 1867, and the Mutual Benefit and Security in 1868. It will be seen that all save the Third Avenue were comparatively young and small institutions, established at a period when the multiplication of savings banks was an epidemic with the people and a favorite of legislation. The total loss to the depositors in these failed institutions is somewhat conjectural. Having no further supervision over them, or official connection with them, I predicate my opinion of their loss on the amount and character of their assets and liabilities at the time of their failure. From a careful examination of these, I think the predication may be safely made, that the percentage of loss in all the insolvent savings

banks, including the expenses of closing them up, will not exceed one-quarter of the amount due depositors. I assume that sufficient time will be taken by the receivers, and proper care will be exercised, to obtain the fair value of the assets.

The history of the Third Avenue Savings Bank, running through an experience of over twenty years, presents many phases of character and management which serves to illustrate the practical workings of these institutions under the provisions of the special charters heretofore granted by the legislature. I select this bank as a fair type of all that have failed in the State since the system of savings institutions was established. Each bank has its own peculiar conditions and causes of failure, but the history of one will, in a marked degree, typify and illustrate all the others.

The report of this institution to the bank department January 1, 1870, shows its resources to be \$5,718,949.24, and its liabilities — amount due depositors — \$5,363,214.39, and its surplus \$355,734.85, an amount over seven per cent on its liabilities. This exhibit is one of strength and prosperity, and compares favorably with those of our most successful savings banks; yet it contained the seeds of approaching dissolution, germinated and fostered by a pernicious provision in the charter of the bank, known as the available fund clause, which permitted the trustees to keep on deposit in bank “or otherwise, in such available form as the trustees may direct,” a large proportion of its deposits.

Under this provision, it appears that the trustees had, previous to this report, made large loans on the stocks of the Atlantic and Pacific Mail Steamship Companies. The result of the loan was a large loss to the bank, so that in the report of 1871, with increased deposits, we find the surplus only \$103,976.13. During the year 1871, the superintendent caused an examination of the bank to be made, and I quote the result as found in his report of March, 1872. He says:

“Two gentlemen, one upon the suggestion of the trustees applying for the investigation, and the other upon my suggestion, cordially approved by the applicants, were appointed to the work. At the close of the examination, which was prosecuted during a period of nearly five months, the examiners being unable to agree in their conclusions, made separate reports. From these reports, after a careful perusal and consideration of them, I derived the following as embodying substantially the state of the case:

“1. The irregularities complained of, which affected the financial standing of the institution, related to transactions of more than three years previous, and consisted in having made loans under the ‘available fund’ clause of the charter, upon the stocks of the Atlantic and Pacific Mail Steamship Companies, which suddenly depreciated in



value, entailing a heavy loss upon the institution, impairing the surplus, but not, as it was believed, to the extent of wholly absorbing it. It is proper here to suggest that the transactions above referred to were not, in any sense, what they have in some quarters been termed, 'speculations' in those securities, but were simply loans upon these stocks at a margin upon their market value, and however faulty the judgment which directed them, were within the authority conferred by the pernicious 'available fund' clause of this and most other modern charters.

"II. There was no evidence in the mass of testimony submitted that established the fact that any trustee had any personal interest to serve in effecting these loans, or that they were effected with any other purpose than to keep the available fund in a productive form, for the interest of the institution.

"III. The other irregularities brought to view were, some of them, unquestionably improper, others of simply doubtful propriety; but there were none of a nature to affect the financial integrity of the institution, and none that a simple direction from the superintendent would not serve to correct, provided they were found by him to be a part of the policy of the management, at the time the examination was made.

"IV. It was not shown that such alleged irregularities were continuing at the period of the examination, but, on the contrary, it appeared that they had been superseded by what seemed to the superintendent to be a prudent and conservative policy. And it further appeared that the unwise policy, that more than three years before had resulted in the losses referred to, was, thereupon, wholly abandoned, and no attempt, even, of its resumption had ever been made.

"V. Both of the examiners, in striking a balance, found the liabilities in excess of the assets, but not to an amount, however, which, in my opinion, would justify me in placing the institution in the hands of a receiver. On the contrary, I was clearly of the opinion that with the change of policy in the management of the bank which had then been inaugurated, and with a reduction of salaries and other expenses, which, I was assured by the managers, would be effected, the deficiency in the assets would soon be made good by the earnings of the institution, thus saving to the depositors the expense of closing up its affairs by a receiver. I have since seen no reason to change this opinion, believing now, as I did then, that the course pursued by me was for the best interests of its creditors. I am confirmed in this opinion by the fact that a justice of the supreme court has recently refused to grant an order for the appointment of a receiver, after the bank had sustained a run upon it for a number of weeks, upon the ground that the 'insolvency of the corporation had not been shown, nor did it appear that

default had been made in paying the plaintiff as a creditor.' I have no reason to believe, if such an application had been made through me, that the result would have been different. Whatever may be the final result of the protracted effort to force it into liquidation, I stand justified in my own judgment and conscience in the attitude I have taken in this matter, in refusing to become a party to the effort to destroy an institution which had so long and so acceptably served the public, and which, in my judgment, had within itself sufficient resources for usefulness in the future."

In January, 1872, a run was made upon the bank unprecedented in the history of moneyed institutions, which lasted several weeks, but owing to the deep-rooted confidence which the bank had acquired through a period of nearly twenty years of usefulness with the public, and to the friendly co-operation and aid of other institutions, it withstood the shock with, however, largely diminished deposits. The report of its condition for January 1, 1873, shows deposits of \$1,435,831.63, as against \$5,081,325.17, for 1872.

There is a strong reason to believe that this run was caused by internal dissensions among the trustees, and was prompted by a spirit so wicked and malicious that it merits the severest condemnation of all fair and just men. By the large withdrawal of deposits, and the impaired confidence in the bank, its recuperative powers were greatly diminished, and the report of 1874 shows only a small increase in deposits, with little apparent change in its condition or prospects.

Strenuous efforts were made to dispose of its real estate amounting, at cost, to nearly \$600,000, the most of which was acquired in the vain effort to secure and save the loan made on the steamship company stocks. But the panic of 1873, and the subsequent stagnation in business, and the shrinkage in values in real estate, made it a well nigh hopeless task.

The examination of the bank made by the department in 1875, showed conclusively that the interest of the depositors required the bank to discontinue business, and on my recommendation the attorney-general commenced an action and placed the institution in the hands of a receiver. Whether it would have been better had a receiver been appointed in 1871 instead of 1875, is a question mostly speculative.

The discretionary power lodged with the superintendent in regard to the condition and prospect of a savings bank, whose soundness and integrity are questioned, is one which calls for the exercise of sound judgment, discreet prudence, and a careful balancing of the probabilities of success, against the shock and disaster of failure to the system under which it is established. It would seem, from an examination of the official facts, that the superintendent was fully justified in the

course he then pursued. On this point I quote from an article from the pen of Hon. E. W. Keyes, who was familiar with the condition and history of this bank during the period of its troubles. He says, referring to the appointment of the present receiver: "And granting now an honest and efficient administration of the receivership recently appointed, we believe the condition of the 8,000 depositors in that institution to-day is a more hopeful one than would have been that of the 13,000 depositors in 1871, had the institution at that time been committed to the tender mercies of a ring receivership, such as was then plotting to get control of its tempting fund of \$6,000,000."

### THE CENTRAL PARK BANK.

This institution, with a deposit of about \$40,000, invested in a banking-house and lent the sum of \$76,000 in round numbers, an amount nearly twice its deposits, thus locking up all the deposits, and incurring a liability on bond and mortgage of nearly an equal amount.

The law, as it then existed, put no restriction upon trustees as to the sum which might be invested in a banking-house, and it was left to the trustees of this bank to exemplify conspicuously the defect of the law in that particular.

Their conduct in erecting a building at such an expense, with so limited an amount of deposits, was prompted either by personal cupidity or corporate stupidity, or both, approaching the marvelous when weighed by the ordinary standards of human judgment which are generally supposed to control the actions of men. I have no knowledge of intentional wrong committed by the trustees, but this management must characterize them as totally incompetent and unworthy to have the custody of trust funds.

At the time this bank was closed, the whole assets consisted of the interest the bank had in the banking-house, and the amount depositors will finally receive must depend upon the disposal of this property. If sold at cost, the loss will be nominal. The building was erected during the spring and summer of 1875, and the first knowledge the superintendent had of it was an application from the officers for permission to change their location, under the provisions of the general Savings Bank Act.

The causes which led to the failure of the other banks before named are of so general a nature that they may be treated properly in a discussion of the subject generally.

### SOME REASONS FOR THEIR FAILURE.

It may seem paradoxical to say that some of the banks failed when they were created, yet there is a degree of truth in the statement which will bear a careful analysis.

It is a fact which cannot be successfully controverted, because fully proved by the official history of the savings banks in the State, that the multiplication of these institutions in localities already liberally provided for has been one of the greatest sources of weakness to the banks, and of danger to the system.

By an examination of the records it is found that during the years 1867, 1868, 1869 and 1870, *twenty new* savings banks were chartered by the legislature in the city of New York, and commenced business. Seven were located on Third avenue. Five of this class are among those which recently failed. From 1819, when the Bank for Savings was chartered, to 1867, a period of forty-eight years, twenty-two new banks were established in New York city, and were doing business at that date. They were found to afford ample accommodation for the public.

In the four years above named this number was nearly doubled, and the question is pertinent here: What was the cause of this large and rapid increase? Did the public necessities require it? Did the increasing business demand it? There is no proof that they did. The entire assets of the twenty new banks to-day fall short of the deposits of a single bank of the better class in the city.

Did this swarm of new banks spring from the philanthropic desire of their originators to aid the industrial classes in saving their hard-earned gains by providing for them safe depositories?

It is greatly to be feared that the motive which instigated the creation of many of these institutions was quite the reverse of humanitarian. The history of some of the banks shows that their organization was inspired by the lowest and meanest forms of selfishness. Savings bank charters were made a means of payment for political services, and positions of trust and honor in the banks were often made the reward of merit for purely partisan service.

The desire for new banks became an epidemic, and the legislature, yielding to the earnest solicitations of interested parties, granted charters with little or no reference to the special qualifications of the incorporators for keeping the people's money.

There was probably a field for a few well-organized new institutions in the upper portions of the city, but the number should have been limited to an average for each year not much exceeding that for the fifty previous years.

#### PROTESTS BY THE BANK DEPARTMENT.

The annual reports of the superintendent of the banking department, since 1857, when the savings banks of the State were placed under his supervision, show an almost uninterrupted series of protests against the policy of multiplying these institutions. The rea

sons were given with emphasis and persistence against this policy. Predictions, since lamentably fulfilled, were made of the danger to the integrity of the system. Apprehended disasters were pointed out specifically, and admonitions were added each succeeding year, to make small drafts on the confidence of the people. All was treated as meaningless by the law makers, and they, with a blind credulity, paralleled only by the advocates of an inflated and irredeemable currency, acted upon the theory that the greater the number of banks the greater the safety and the more money for the people.

As early as 1858, Superintendent Cook says in his report: "The granting of new charters for savings banks is worthy of, and should excite, the closest scrutiny of the legislature. In the opinion of the superintendent, nothing will tend to decrease their usefulness and safety more than an indiscriminate granting of this description of charters."

Superintendent Van Dyke says, in his report for 1864: "The demand for charters of this character is doubtless quite as often the result of personal cupidity, seeking the control of the earnings of the poor, as it is the dictate of a disinterested benevolence, intent only upon benefiting a meritorious but dependent class. Hence too much caution cannot be exercised in the dispensation of charters, especially when, as in our larger cities, abundant accommodation for the safe-keeping of savings is already provided."

Superintendent Schuyler says in his annual report of 1866: "It would seem quite needless to suggest that a few strong and sound institutions doing business upon a scale, whose expenses are but a small percentage of profits, are far safer than a large number that shall so divide the business and profits as to leave small surpluses, if any, after paying current expenses."

Again in his report of 1868, he says: "In view of the policy which seems to find favor with every legislature, it seems superfluous for the superintendent to repeat the suggestions so often urged in reports from this department, concerning the impolicy of increasing the number of savings banks in localities where the number already in operation is fully equal to the needs of the community to be served by them.

Superintendent Howell says, in his report for 1871: "All the conditions relating to this interest seem to inspire me with a strong conviction that the indiscriminate multiplying of these institutions, such as has characterized the legislation of the last few years, is most impolitic and hazardous. In my judgment, unless the powers granted to the legislature in this direction are most carefully guarded, the result will prove disastrous to many of these institutions, and seriously

impair, if it does not ultimately embarrass and discredit, the whole system."

From a careful examination of the practical workings of savings banks, I think it will be found that this unwise creation of them has been the main cause of weakness and actual disaster. While other causes have contributed, directly and indirectly, to their inability to succeed and become prosperous, this is the dominant and conspicuous one. It has induced eager and unhealthy competition between rival banks. Patronage has been solicited and obtained at the expense of safety. Inducements have been held out to depositors by promises of greater dividends than the bank was able to pay. This was not a matter of choice; it was a necessity. A new bank starting business in the midst of old and well-established institutions must offer equal or greater inducements to the public than those with which they compete, otherwise the enterprise is hopeless from the beginning.

Having no capital nor guarantee fund, it draws its deposits entirely from the confidence reposed in its management, and the inducements of large dividends offered to its patrons. They, in many instances, are unable to discriminate between the ability of the one or the other to earn these dividends; but trusting to a personal acquaintance with some trustee or the representations of some neighbor, the deposit is made and the bank enters on its career, it may be of success—perhaps a failure. In the absence of any restrictive legislation heretofore fixing the maximum rate of interest which savings banks might pay to depositors, it is plain that in places already well supplied with these institutions their rapid multiplication was always experimental and hazardous. The conditions of competition were such that only under the most favorable auspices had they an assured future.

In places not already supplied, they ministered to a public want and became a public benefit. This unhealthy competition in securing deposits manifested itself in various forms, but always in a direction tending to the ultimate injury of the bank. It induced speculative loans and investments, which promised large returns. Officers were tempted in making them to the very verge of the legal limit, and in some cases beyond it. Loans of the "available fund" were made upon securities, as in the case of the Third Avenue, doubtful in their character, uncertain in their value, subject to great fluctuations in the market, and never proper securities for loans of trust funds, which are of all moneys the most sacred. The effort to make large gains frequently caused dissensions and divisions in the board of trustees. Internal dissensions create factions, and instead of harmony and unity in working for the best interests of the institution, faction, always a dangerous element, exercised a selfish judgment, and controlled with biased will.

Over-trading brings disaster in savings institutions as well as in mercantile affairs, and an excess in number of these institutions begets over-trading.

The argument against the undue multiplication of savings banks, which has been presented, applies to a normal condition of monetary affairs with such force and pertinence as to need no further illustration here, but with how much greater weight and more marked effect does it relate to the business condition of the country existing for the last three years? It must be admitted that the great strain put upon labor and capital during this time has had much to do with the failure of several of the insolvent savings banks. The larger number of them, under ordinary and average conditions of trade, would, perhaps, have succeeded in gaining a vantage ground which would have insured a prosperous career. They were not unlike all young institutions, except in the particular that they started with a larger competition. Some of them had, to a reasonable degree, the confidence of the public. They had elements of strength and growth. They had the same right to life, having once been created, that the older and stronger banks had, during the days of their infancy. The law placed them on an equality with all others to make the experiment, to succeed or to fail. The law creating them was primarily at fault, because there was no field for them to glean, no harvest for them to gather, except the uncertain one which the future might produce.

The impressive lesson taught by these failures should be conservatism and circumspection in the creation of these banks, in their powers and privileges, and in their supervision and management. There is far greater danger to the system in extending their powers up to the "dead line," than there is of injury to the interests of the people in keeping them within the well-guarded fortifications of safety, which years of experience have reared.

#### THE RATE OF INTEREST PAID.

By the provisions of the general savings bank act, passed at the last session of the legislature, all savings banks in the State are placed upon an equality so far as relates to their "rights, powers and liabilities." The maximum rate of interest which the banks may pay to depositors is fixed at six per cent. A surplus of ten per cent on their deposits may be kept as a guarantee fund; any excess above the ten per cent must be divided among the depositors at least once in three years. The banks, with few exceptions, are now paying six per cent either on all or a portion of their deposits. While it may be feasible for the older and larger banks, which have a large surplus, to pay this rate of interest, it is evident that the younger and smaller ones, with

less deposits and small surplus, cannot, in the existing state of business and the largely augmented market price of first class securities, pay this rate, and add any thing to their surplus fund. To pay less than the old banks is to discourage deposits. To pay the same is to prevent an accumulation for a safety fund. To discourage deposits is equivalent to a discontinuance of business. A discontinuance of business in this time of depression would, in some cases, prove a loss to the depositors. It thus becomes a question of moment whether the maximum rate of interest, established through years of great nominal prosperity, is the proper rate for to-day. The conditions are changed. Money in Wall street, which heretofore commanded from seven to ten per cent, can now be had at four to seven per cent. Municipal and county bonds which formerly brought only par in the market, are now worth a large premium. Securities are worth more and money is worth less. Can the banks with safety afford to pay the present rate? Can they earn it legitimately?

The true interest of the depositors lies not so much in the amount of the dividends they may receive, as in the absolute security of the principal. If dividends are acquired by them at the ultimate expense of the integrity of the principal, it is a very dear purchase. The clamor for large dividends has cost, in some cases, a part of the principal to the depositor.

The practical question is, how shall the rate be regulated?

In moneyed corporations doing business with a capital, the question is easy of solution. The capital is the guarantee fund, and the dividends may be determined by the earnings. But in savings banks a different rule obtains. They have no capital. They have no resources but the money deposited with them, which they are required to invest according to law. Their stock in trade, when the bank opens, consists in the confidence the people have in the law which creates it, and in the men who manage it. This confidence in the law goes to the extent of believing that if a bank is permitted to organize, it will be under such conditions and restrictions, and with such safeguards surrounding it that it can compete with existing institutions without danger to those depositing funds with it. The confidence in the men who manage it is in their ability and integrity, and the belief that they will fully and strictly comply with the law.

The authority which established the old banks creates the new.

If we assume that six per cent is a greater rate of interest than the new banks can safely pay, does it not become the duty of the State to lower the rate now paid or prohibit the organization of new banks? But the State has already created many comparatively new banks in localities where strong competition exists, exceptionally so in the metropolis. They are now engaged in business. They are compelled



by the action of the stronger banks to pay this rate of interest or go into liquidation. Shall they be forced out? Is this to be the correction for the ill-advised legislation which establishes them, and empowered to receive the deposits of the people? It may be urged that the earnings of the banks belong to the depositors, and that no restriction should be placed upon the rate to be paid; and the greater the rate the better for the depositor. This is unquestionably true under certain restrictions; one of which is the accumulation of a surplus to guard against loss in the depreciation of assets. It may be further claimed that, while the larger banks can pay the present rates of interest because of their age and strength, they should be permitted to, regardless of the younger and weaker ones. That, by so doing, the "greatest good to the greatest number" is secured. This may be true to a certain degree, but legislation should look to it that, while the interests of the greatest number are protected, no injury should result to the minority in the methods by which it is effected.

#### THE DUTY OF TRUSTEES.

The position of a trustee of a savings institution is one of exceptional responsibility. He accepts a trust which demands of him intelligence, integrity and faithful attention to the discharge of the functions of his office. His time, so far as it may be required, belongs to the depositors. His best efforts to protect their interests are pledged to them by his acceptance of the trust, not merely by implication, but positively and unequivocally.

When he enters into this fiduciary relation all considerations of profit or advantage to himself should be discarded. One motive alone should shape and control his conduct, and that the resolve to do his duty, and nothing less. Yielding to no seductive influences to make speculative loans and investments, promising large returns, thereby increasing the surplus and strength of his bank, but firmly and steadily resisting all temptations of that character, and planting his foot on the rock of *safety*, he should stand and battle if need be for a lawful, prudent and conservative administration of his institution, and he will find his reward in a consciousness of right-doing, and the tribute of praise from all just men.

The success of our savings bank system depends more upon the personal character of the trustees of the several institutions than upon all other causes combined. Restrictive and corrective legislation, founded upon years of experience in the practical workings of these institutions, is valuable in shaping the policy of the system. Facts are evolved and results obtained which serve as beacon lights for future guidance; but no legislation, however well considered, will

avail to prevent abuses, or to correct existing evils, unless the true spirit which should inspire the conduct of the trustees becomes the animating and controlling one. The man who accepts this trust thoughtlessly, with no intention of giving it his watchful care and personal attention, who passively permits wrong-doing, places himself in a position but little less criminal than he who positively violates the law and converts to his own use the moneys intrusted to his safe-keeping. The measure of censure should be little less.

The want of time is often plead by trustees for not attending the meetings of the board. No time for examining the books, or ascertaining the true condition of the bank; no time to give when there is no personal remuneration. This is a frequent excuse for a neglect of duty. There is no law which *compels* any man to accept the trusteeship of a savings bank, but if he does so voluntarily, there is both positive enactment that he shall, and solemn agreement on his part that he will, discharge its duties to the best of his ability. If he cannot find time for this, he certainly can find time to resign, and let some man with a proper sense of his responsibility take his place. The public judgment, I think, would be that all such trustees, wherever found, "should not stand upon the order of their going, but go at once."

To that large body of trustees throughout the State who have given their time, experience and best endeavors, without reward, to build up, strengthen and perpetuate our savings bank system, very much credit is due. They have been the bulwark of the system. They have contributed to the saving of large sums of money which otherwise would have been spent in improvidence, or never been acquired for lack of the incentive furnished by these institutions. They have stimulated economy, and habits of industry and thrift among the more dependent classes. Their efforts have largely conduced to a greater degree of temperance, and a better type of social life, and, like all well-directed movements in behalf of mankind, their beneficent influences have quietly, but continually, produced lasting results for good, through all grades of society. Give the meed of praise to the honest, intelligent and efficient trustees of our savings banks.

#### SAVINGS BANK SAFETY FUND.

The late failure of savings banks suggests the need of some better and further protection to the individual depositor than that afforded by the success in business of a single bank. While the aggregate losses by these failures are an insignificant percentage upon the entire assets of all the banks in the State, they fall with great hardship upon the individual depositors in the several failed banks. Any provision for the protection of depositors against loss would be wise and salu-

tary, which worked no injustice to others more fortunate. I suggest that the law be so amended that a small percentage of the surplus or deposits of all the savings banks be set apart, annually, which shall constitute a safety or guarantee fund for the protection of depositors in any bank against loss, this fund to be lodged with the superintendent of the bank department, and be invested by him in United States or State stocks, with the accumulation thereon, until a sufficient sum has been acquired to cover any probable losses by the failure of any savings bank. The amount would not be large. One quarter of one per cent paid on the surplus now accumulated, and that hereafter made, would soon create a fund sufficient for all practical purposes. This would be a mutual benefit fund, and would prove of value to the system in many ways. It would insure to the depositor in any savings bank the repayment of his money. It would increase and intrench confidence in the general plan and management of these institutions, inasmuch as the State would provide a sure remedy, in case of failure of an institution, against loss to the individual. It would go far to allay excitement and prevent "runs" in times of monetary disturbance, not only put upon the weaker but the stronger banks.

Experience has shown us that the "runs" are often made upon the latter class as well as the former, and consequent loss by the enforced sale of securities, to meet the demands created by fear of ultimate failure, is the result to the bank. Having no capital, doing business upon the basis of public confidence only, and largely with the uneducated and unthinking classes, these institutions are peculiarly subject to attacks growing out of panic and fear. It is believed that a knowledge by these people that the State had provided a safety fund which would insure their deposits would, in a large measure, if not entirely, prevent such disturbances.

There would be no hardship to any bank or the depositors of any bank in establishing this fund, because it would be a measure in the common interest. The interest of one is the interest of all, and absolute security is a consideration paramount to all others. The failure of one bank is a great shock to all. The loss of one member affects the whole body. The protection of all the component parts is the protection of the whole. I make this suggestion to the legislature for your consideration, omitting details for embodying the idea in a practical form, until such time as you may decide upon its merits.

It is fair to assume, reasoning from analogy and all human experience, that under the wisest legislation in creating these institutions, and the most skillful and prudent management in their operations, more or less of disaster will overtake them. In view of this fact, should not this subject command earnest and thoughtful attention at

your hands? Would it not more perfectly carry out the benevolent idea upon which the savings banks were originally founded? By creating a mutuality of interests, an incentive would naturally arise which would make each bank not only watchful of its own condition and method of conducting its business, but of those of all the rest. Each bank would, to a certain extent, become the guardian of the others. Each would have a contingent interest in the success of the others. Mutual interest would tend to co-operation and harmony among bank officers, and a more rigid adherence to the requirements of law and safe practice would be demanded and enforced. The motives for the creation of new banks would be more thoroughly scrutinized by the existing banks. Frauds in the management of these institutions would be more quickly detected. Every trustee would become a sentinel on the watch-tower, looking out for the interest of his own bank lest it became in any degree impaired by the conduct of the others. In short, it would unify and crystallize all into one harmonious whole, to the lasting benefit of those who place their money in these depositories created by the State for beneficent purposes.

#### SAVINGS BANK BUILDINGS.

The special charters granted to savings banks, prior to the passage of the general law, authorized the trustees to erect buildings suitable for their purposes without restriction as to their cost. The General Act of 1875 limits the amount invested in a bank building to one-half of the surplus of the bank, unless written permission is given by the superintendent to exceed that moiety. Under the charters many buildings were erected for savings bank purposes of at least questionable character, so far as relates to the money invested in them. Such extravagant outlays have been made in some instances as to suggest the idea that a spirit of rivalry existed among the institutions to see which one, if possible, could exceed the others in studied design, elaborate ornamentation, luxurious elegance of appointments and artistic effect. All this is pleasing to the eye and ministers to the æsthetic taste of the neighborhood where the building is located. In most cases the erection of a fine building is indicative of the past success and the strength of the bank, and it is claimed by the managers that it induces deposits and increases the influence of the institution. But looked at in a business light, the question arises as to its propriety and safety. Is it a *proper investment* to make of trust funds? Does it add to the safety of the deposits, or is it an element of weakness? There are instances where from a half to three-quarters of a million of dollars are invested in a single building, for the use of the bank,

bringing no rental and designed for none. The interest on this investment with the repairs and taxes, make the annual expense to the bank from \$50,000 to \$75,000 for the use of offices in which to transact its business. Not a profitable investment, surely, in income with which to make dividends. On the other hand it is a source of weakness, because it takes a large sum from the fund of the bank which is available and productive, and places it where it is unavailable and unproductive, and in case of mishap to the bank compelling liquidation, it would have a market value not to exceed one-quarter of the original cost. The difference between cost and the price sold for would be a loss to the depositors; this, added to the annual expense necessary for the reasonable requirements of the bank, and the amount actually paid, would in a few years amount to a large sum.

To illustrate : Suppose a savings bank erects a banking-house for \$100,000. The annual rent would be worth, say \$10,000; this for a period of ten years would cost the bank \$100,000. Another bank erects one for \$600,000. The rent of the latter for ten years would amount to \$600,000, a difference in the expenditure of a half million dollars of depositors' money, and for what? In case of an enforced sale the former would probably bring cost or nearly so, the latter one-quarter, or \$150,000, a loss of \$450,000. This, added to the difference in the cost of rent to the bank, would make the aggregate loss for ten years' business \$950,000, a very handsome surplus for a bank with \$10,000,000 of deposits.

The conditions of one bank undoubtedly require different accommodations for it from those required by another, but in these large and extravagant outlays in buildings, it is safe to say the larger proportion of the sum expended is not for the real needs of the bank, but for elegance and display. This practice should be discouraged. It incites to extravagance those not as well able to gratify their tastes. It is another manifestation of the temper of the people to indulge in fast and improvident living. It is in keeping with the spirit of the age, the outgrowth of a morbid financial and social state which threatens the material growth of the country and demoralizes the people.

Like all other forms of exaltation, abnormal and exceptional, the return to conditions normal, safe and enduring is often through the thorny paths of distress and humiliation. The fact that a bank is strong and able to make extravagant investments in a building to-day is no justification for so doing. One of the most promising of savings banks in 1868 is now in the hands of a receiver. The prudent trustee will consider well and hesitate long before he votes to invest the funds intrusted to his keeping in such form as to impair the actual strength of his institution.

What has been done in this direction cannot now be revoked, but the future may be guarded against by the admonitory lessons of the past.

#### THE GENERAL SAVINGS BANK LAW.

The working of the savings banks under the general law enacted at the last session of the Legislature has, in the main, been satisfactory and beneficial. The general effect may be seen in the improved character of the securities held by the banks, as shown by their reports, and more particularly in the items of call loans. A very marked improvement has been made in these.

Under the old system which permitted these loans to be made on all kinds of miscellaneous securities, there was great danger to be apprehended and much actual loss. Under the present law these loans are restricted to such securities as the trustees are permitted to make permanent investments in. This provision removes one of the greatest sources of danger from the system, and its adoption, in my opinion, has done more than any other one thing to challenge the confidence of the people and entitle these banks to their support.

It is a long stride toward honesty in their management. It removes the great temptations once held out to the trustees to make speculative loans on variable securities, induced either by the desire of large gains or by selfish and personal considerations. In either case, they were made at the imminent risk of loss to the bank. The inducements held out were often too strong to be resisted when the discretionary power was vested in the trustees. Their judgment often became biased and partial, while their motives were honest.

Under the present law, no discretion is left except to select, for loans, individual members from the common family of securities which the legislature has named.

Each successive year will emphasize the wisdom and practical benefits of this change. I have found a common desire, on the part of trustees, to conform cheerfully to all the requirements of the law and to carry out its provisions to the letter. A longer experience under it will probably suggest some modifications, evolved from results ascertained, but not as yet seen or realized.

It is believed by some, if not all of the best managers of these institutions, that the percentage of surplus funds allowed to be retained by them should be based upon par values instead of market values. I share in this belief. The reasons are obvious. Market values are constantly fluctuating; hence the basis on which the surplus is to be calculated is unstable and uncertain. The valuations to-day are not the valuations to-morrow, and a true statement of the surplus cal-

culated upon this basis to-day will be an untrue one to-morrow. It should be definite, so as to show the actual percentage of surplus on the par value of securities, the amount to be realized from them if held to maturity.

Banks make their investments in stocks with the intention to hold them until they mature, not to buy and sell in the market for speculation, and the stock now worth a large premium will realize to the bank only the amount to be agreed to be paid by its terms. This method of estimate, if allowed to remain, should permit a much larger surplus to be held to cover shrinkages on maturing stocks than would be required if the par value was taken as a basis of estimate. The statement of surplus, as shown by this report, based upon market value and on par value of stocks, presents a wide difference, and since the limitation of surplus is purely arbitrary, it would seem that a fixed basis from which to make the computation would be preferable to a changing and uncertain one.

The conservative features of the general law are a step in the right direction. It is a returning to the old landmarks of safety and time-honored business principles. It cannot be denied that the managers of savings institutions in too many cases had become infected with the prevailing spirit of the times, and in their haste to make money had overlooked the fundamental principles on which they were founded.

The miasma of speculation and fast living, overtrading and extravagance, had insidiously inflamed the blood, until a monetary delirium was imminent. The legislation of the State tended in this direction. The financial policy of the general government, the largely increased and depreciated currency, the fictitiously inflated prices of all species of property produced their legitimate fruits, and savings banks, like all other institutions, both moneyed and commercial, had drunk of the seductive draught and become intoxicated.

The revulsion is simply the repetition of the lessons of history. It came none too soon. A longer delay would have increased the peril. The causes which endangered our savings institutions have been removed by wise and timely legislation, and when the diseased and unthrifty branches are lopped off, the parent tree will be stronger and healthier than ever before.

Respectfully submitted.

DE WITT C. ELLIS,

*Superintendent.*

*John H. Lyon*, being duly sworn, testifies as follows :

By Mr. OLMSTEAD :

Q. Were you the former president of the Third Avenue Savings Bank in this city ?

A. I was the former president from 1871 to 1872.

Q. Were you the president on January 1, 1875 ?

A. They re-elected me, but I never accepted only by signing a single document, which made me virtually president.

Q. What document was that ?

A. It was a statement.

Q. Will you please look at the statement on page 168 of the annual report of the superintendent of banking department for 1875, and say whether that is the statement that you refer to ? [Handing witness a book.]

A. As I never saw the statement but once, when it was brought to my office, I could not positively swear it is the one.

Q. You have no doubt it is ?

A. I have no doubt it is ; it was brought to me and I signed it, and I supposed it was all right.

Q. Did it show any excess of assets over liabilities ?

A. Yes, sir ; a small amount.

Q. About \$6,960.65 ?

A. Yes, sir.

Q. Were you then engaged actively, acting as the president of the bank ?

A. No, sir ; I never signed any official document only that.

Q. When did you cease taking an active part ?

A. March 19, 1872.

Q. Do you know who prepared this statement ?

A. I do not.

Q. Who brought it to you to sign ?

A. Mr. Carman.

Q. William S. Carman, who was then acting as secretary ?

A. I think that is his name ; at that time I was not personally acquainted with him ?

Q. Were you personally aware at that time of the condition of this bank ?

A. I was not.

Q. Then you had not yourself personally made an examination of this bank ?

A. Not since 1872.

Q. And you did only what you thought was proper for you to do, being an officer of the bank, to sign them, inasmuch as it had been brought to you by the secretary ?



A. I asked the question if the thing was all right, and he said he could afford to sign it, and I thought I could.

Q. Do you know what is the cost of that bank building ?

A. I do not.

Q. When was it purchased ?

A. That I don't know ; I was not in the bank only about a year, from 1871 to 1872.

Q. It was not purchased during the time that you was in the bank ?

A. No, sir ; I saw the cost put down.

Q. You had no reason to suppose otherwise than that this statement that you swore to was correct ?

A. No, sir ; there had been money raised as they supposed to make it good.

Q. What money do you refer to ?

A. Bonds.

Q. The bonds of the trustees ?

A. Yes, sir.

Q. Were you one of the bondsmen ?

A. Yes, sir.

Q. Has your bond been sued ?

A. It has.

Q. Are you defendant ?

A. Yes, sir.

Q. On what ground ?

[Objected to as immaterial ; that the answer itself should be introduced here, parol evidence not admissible of it ; that it has occurred since the time of the handing of the bank over to the attorney-general by Mr. Ellis. Objection sustained.]

Q. Did you suppose at the time you swore to this statement that has been referred to, that those bonds mentioned in the statement as \$115,000 of bonds, were good and valid bonds, and good assets of the company.

A. Yes, sir.

Q. Has any thing occurred from that time to this to change your opinion ?

[Objected to, on the ground that his opinion is not evidence ; it does not appear that it occurred before Mr. Ellis reported it to the attorney-general ; that the evidence is immaterial ; that what his opinion is makes no difference. Objection sustained.]

Q. Upon what ground or grounds are you defending the suit upon your bond ?

[Objected to, on the grounds : First, that it is immaterial ; Second, the answer itself is the best evidence ; Third, that the grounds of his action have no bearing on the question at issue here in regard to Mr.

Ellis' action ; Fourth, that it occurred after Mr. Ellis passed the bank to the attorney-general.]

Mr. Olmstead states that he is ready to produce the answer referred to in the objections.

[Objection sustained, on the ground that it is a proceeding commenced since the bank was put into the hands of a receiver.]

Q. Who suggested the giving of these bonds ?

[Objected to, on the ground that it was a long time prior to the time when Mr. Ellis became superintendent of the banking department ; also that it was never brought to Mr. Ellis' knowledge ; also that it is immaterial on the issues that are here being tried. Objection sustained.]

Q. Were you in the habit of meeting with the officers of the bank at their regular meetings ?

A. No, sir.

Q. While you were president ?

A. In 1871 and 1872 ; yes, sir.

Q. You did not meet with them after that ?

A. No, sir ; only once after 1872 ; then I notified them by letter and notified them personally that I would not serve only once.

Q. Did you attend the meeting of the 28th of September, 1875, the last meeting of the bank ?

A. That I could not say ; I don't remember what time it was.

Q. Were you appointed a committee together with William S. Carman, the secretary, to go to Albany, in relation to winding up the affairs of the bank ?

A. No, sir ; not to my knowledge.

Q. Did you go to Albany ?

A. No, sir.

Q. Did you or did you not suppose in March, 1875, that the bank was solvent or insolvent ?

A. I didn't know any thing about it.

Q. Did you not consider it your duty to inform yourself ?

A. I was very much engaged in business in Chicago, and I was not here but a very little of the time, perhaps once a month ; once in three months, sometimes.

Q. Did you ever see Mr. Ellis, the bank superintendent ?

A. No, sir.

Q. Or Mr. Reid or Mr. Aldrich, the examiners ?

A. No, sir.

Q. Do you know who did go to Albany with Mr. Carman ?

A. I do not.

Q. Do you know who the committee were ?

A. I do not, sir.

Q. Do you know of any reports having been made by the bank or

any of the officers of the bank to Mr. Ellis other than you have stated ?

A. No, sir; that is the only one I ever saw.

Q. Do you know who had charge of the bank as president during your absence ; did any one act as president ?

A. In 1872 ?

Q. Yes, from 1872 ?

A. I think Mr. Bates served for a spell, and then there was some one else elected ; I forget what his name is.

Q. Served as the acting president ?

A. Yes ; I have very little to do with it.

By Mr. CHAPMAN :

Q. This you only know from what you have heard ?

A. That is all.

Q. You have no personal knowledge of it at all ?

A. No, sir.

By Mr. OLMSTEAD :

Q. Then I understand you to say that you don't know who had charge of the bank during the time you were president after 1872 ?

A. No, sir.

By Mr. CHAPMAN :

Q. I suppose Mr. Ellis did not know of any conversation between you and Mr. Carman ?

A. I don't know of any.

Q. You don't know of any way that he could know it ?

A. No, sir.

Q. Either by way of examination of the bank or any other way ?

A. No, sir ; I never saw Mr. Ellis or any of the parties.

Q. During the time that Mr. Ellis was superintendent you were not around the bank ?

A. No, sir ; not from March 19, 1872.

*Homer Morgan*, being duly sworn, testifies as follows :

By Mr. OLMSTEAD :

Q. Do you reside in this city ?

A. I do, sir.

Q. Your business ?

A. Real estate agent and broker.

Q. How long have you been such real estate agent and broker in this city ?

A. Since 1842.

Q. Will you please state when the depreciation in real estate in this city commenced, on account of the panic?

A. It began to be felt in 1873.

Q. How long did it continue?

A. Up to the present day.

Q. How great was the depreciation of real estate generally, in this city, from 1873 to 1875?

A. An average of  $33\frac{1}{3}$  to 40 per cent.

Q. Are you acquainted with the Third Avenue Savings Bank building on Third avenue and Twenty-eighth street?

A. Only generally; not by close examination.

Q. What, in your opinion, was the value of that property, about March, 1875?

[Objected to on the ground, *First*. That the opinion of Mr. Morgan on the question is immaterial on the issues here being tried. *Second*. That it must first be shown that Mr. Ellis' attention was called to his valuation. *Third*. That under the law Mr. Ellis is not required to act except it has been made to appear to him, either by his own examination or by the report of an examiner, that certain things appear. Objections overruled.]

Q. [Question repeated.] What, in your opinion, was the value of that property — the banking-house and lot — about March, 1875?

A. I should like to know the size of the lot; is there a diagram of it here?

Q. It was about 25 by 98?

A. I think it was more than that; it strikes me——

Q. There were two lots, one 25 by 84 and the other 25 by 98.

A. Are you sure of that?

Q. So Mr. Ludlow says.

A. I made my former calculation upon its being a little wider upon Third avenue.

Q. Now, what was its value in March, 1875?

A. It was about, perhaps, \$110,000 or \$115,000 as an entirety.

Q. Was it ever worth any more than that sum since you have known it?

A. I think it very likely in the highest days — perhaps three years before — before the commencement of the panic, which was in 1873; I think it would have brought \$140,000 in the palmy days, but in the time which you speak of I don't think it would have brought on its merits more than about what I have stated; it did sell, as I find on record——

[Objected to.]

Q. Do you know what the property sold for?

[Objected to as immaterial, and that it was after this bank had passed into the hands of the attorney-general.]

Q. When was the property sold ?

A. About a year ago.

By Senator WELLMAN :

Q. In fixing these values I understand you to estimate them at the prices at which you think the property could have been sold ?

A. Yes, sir.

Q. For the business of banking, or for any purpose ?

A. For any purpose ; for investments, or for any purpose.

By Mr. CHAPMAN :

Q. Worth more to a bank already located in there than it would be to somebody else, would it not ?

A. It would in prosperous times, but there would not be any very great advantage during this period of this great depreciation.

Q. If the bank had not had that building they would have had to go somewhere and get another ?

A. Yes, sir.

Q. It was worth just as much to them, probably, for banking purposes, as a building that would cost considerable more.

A. Yes, sir ; but it would not have brought its value as a bank if put up for sale.

Q. Your value is based upon that alone, what it would bring at a forced sale ?

A. Entirely.

By Mr. OLMSTEAD :

Q. Would the property have been worth any more to other parties from the fact that there had been a bank there ?

A. I think it would have had a little influence with the general buyer, it being a good building and suitable for that or any other purpose, but there isn't any particular (so far as my opinion goes) advantage in favor of a bank building being sold now out of the immediate center in Wall street or its vicinity.

Q. And you valued it then, what it was worth, the lot and building ?

A. Yes ; just upon its merits.

By Mr. CHAPMAN :

Q. How much has property and real estate depreciated in New York since March, 1875 ?

A. It is on a stand still; I doubt if anybody can give a percentage about it; there is no real market.

Q. Do you mean to say that it has depreciated since March, 1875?

A. Yes, sir.

Q. How much?

A. That I could not answer, not by percentage, but it is constantly on the decrease; in other words, there is no market hardly for any thing, except it is a made-up market — manipulated market; a buyer is disposed to offer a price, the seller won't take it, and then the intermediate men work as hard as they can to bring the two together.

Q. Since 1873, then, real estate has had no market?

A. Yes, sir; since 1873, it has had a market.

Q. Since 1875, I mean?

A. Not that you can call a market; you cannot find a buyer without a great deal of trouble.

*E. H. Ludlow*, being duly sworn, testifies as follows:

By Mr. OLMSTEAD:

Q. You reside in this city?

A. Yes, sir.

Q. What is your business?

A. Real estate agent and broker.

Q. How long have you been such?

A. I commenced in 1836.

Q. Are you acquainted with the bank building of the Third Avenue Savings Bank, on Third Avenue and Twenty-sixth street?

A. I know it outside, not inside; I have seen it outside.

Q. Will you please state what its value was in March, 1875; the value of the property known as the bank property?

[Same objection as to Mr. Morgan's testimony.]

A. It is very hard to give the exact value of it at that time.

Q. What would have been its value; fair market value?

A. I should hardly think it would have brought more than \$100,000 or \$110,000.

Q. Do you consider that as its fair value at that time?

A. It is rather hard to give a fair value of it; demand, since the great panic, for banking-houses, of course, has subsided; the building is more calculated for a banking institution than any thing else — and insurance; it is hardly suitable for mercantile purposes up there; I think it would have been very difficult, since the great panic — I think that was in 1871 — to have sold that property over \$100,000.

By Senator WELLMAN :

Q. You mean the panic of 1873, do you not ?

A. Yes, sir ; 1873.

By Mr. OLMSTEAD :

Q. When did property commence to depreciate in this city ?

A. I think it commenced before the panic of 1873 ; I don't think it was as lively before that, and after the panic it was much duller.

Q. There was quite a large depreciation immediately after the panic, was there ?

A. Not so immediately after, but gradually.

By Mr. CHAPMAN :

Q. There were large and expensive vaults, were there not, in this bank ?

A. I never examined the property internally ; only externally I have seen it ; I presume the vault would be suitable for banking purposes.

Q. Those vaults which are used by banks and insurance companies are very expensive, are they not ?

A. They are considered to be ; I am not very much versed in building ; but I am told they cost a great deal.

Q. Whether or not there were any in this building you have no means of knowledge ?

A. No, sir ; I am not aware.

Q. You don't know what this property costs ?

A. No, sir ; I do not.

By the CHAIRMAN :

Q. In putting your estimate on it, do you calculate any thing for the value as vaults and safes inside connected with it — did you take that into account ?

A. No, sir ; I did not take that into account at all, because I don't think they would have any value, except for a banking-house ; for mercantile purposes those vaults would be of very little use.

By Mr. OLMSTEAD :

Q. Would that kind of property in March, 1875, have been as valuable as an asset to the bank as a banking-house, as it would have been had the house not been erected for banking-house purposes ?

A. It would be worth more to a banking-house than to any other party.

Q. I am speaking of it as an asset which could be sold ; it would not be as valuable, therefore, to other parties as to a bank ?

A. No, sir; to the bank itself it would be more valuable than any ordinary building.

Q. It would really be worth less than it is as an asset to be sold on the market?

A. I don't know as it would be worth any less; it would not be of any value to have those vaults for commercial purposes.

Q. I understood you to say that in March, 1875, that banking-house would not be as valuable as it would be before?

A. I say that, and I say that again.

By Mr. CHAPMAN:

Q. You considered that in the estimate which you have given?

A. Yes, sir.

Q. It would be worth just as much to this bank if it had continued in business, as a more expensive building, wouldn't it?

A. It would have been worth as much for their business if it was comprehensive enough for their business.

*John H. Roberts*, being duly sworn, testifies as follows:

By Mr. OLMSTEAD:

Q. Are you employed in the county clerk's office as clerk?

A. Yes, sir.

Q. You received a subpoena to attend here?

A. Yes, sir.

Q. Have you examined in the county clerk's office for a report of the condition of the Third Avenue Savings Bank, filed in that office on or about October, 1876, by S. H. Hurd, receiver?

A. I have searched for it.

Q. Did you find it?

A. I have been unable to find it.

Q. Did you find any record?

A. No record of any such document being filed.

Q. What record would be kept in the office if such a paper had been filed?

A. It would have been entered in our books.

Q. Is there an index in those?

A. Yes, sir.

Q. Did you search the index?

A. Yes, sir; and went through the papers also; I think the trouble is they gave us no title to look after.

Q. How were those reports entered?

A. It is generally somebody as the plaintiff against the bank.



By Mr. CHAPMAN :

Q. It is in a suit ?

A. In a suit, yes, sir ; it is not generally "in the matter of" the bank ; tell me who the plaintiff is, and about the dates, and I can find it.

Mr. OLMSTEAD states that as he has no more witnesses present, he desires an adjournment.

Mr. CHAPMAN states that he does not wish to proceed with the testimony on behalf of the defendant until the prosecution has finished.

Adjourned to May 16, 1877, 10 A. M.

NEW YORK, *May* 16, 1877.

The committee met at 10 A. M., pursuant to adjournment.

Present—Senators COLEMAN (the Chairman), WELLMAN and ST. JOHN.

*John H. Stewart*, called on behalf of the defendant, being duly sworn, testifies as follows :

By Mr. CHAPMAN :

Q. Where do you reside ?

A. In the city.

Q. How long have you resided here ?

A. With the exception of a year or two, all my life.

Q. You are president of the United States Trust Company ?

A. I am, sir.

Q. How long have you been such ?

A. Twelve years.

Q. Do you know Mr. Ellis, the superintendent of the banking department ?

A. I do.

Q. How long have you known him ?

A. Nearly all the time that he has been superintendent of the bank department.

Q. Do you recollect the occasion of Duncan, Sherman & Co.'s failure ?

A. I do.

Q. Do you recollect that a short time after that Mr. Ellis called upon you and consulted with you in regard to the advisability of throwing the Third Avenue Savings Bank into the hands of a receiver ?

A. I recollect his calling shortly after that.

By Mr. OLMSTEAD:

Q. State about the date?

A. I cannot fix the date; I remember Mr. Ellis being in the office of the Trust Company shortly after the failure of Duncan, Sherman & Co., and at that time he asked me —

Q. I would like to know when that was; when was the Duncan, Sherman & Co. failure?

A. I think it was in the spring of 1875.

Mr. CHAPMAN — I think it was some time in May, 1875.

THE WITNESS — Mr. Hurd corrects me by saying that they failed in July, 1875; it was shortly after that; I cannot fix the month; it was shortly after the failure of Duncan, Sherman & Co., whenever that was.

Q. What was the state of public feeling in the market at that time, financially?

[Objected to.]

Q. Will you tell what occurred between you and Mr. Ellis at that time?

Senator ST. JOHN — Is that date fixed?

Mr. CHAPMAN — I have a minute here that Duncan, Sherman & Co. failed in April, 1875.

THE CHAIRMAN — Mr. Hurd thinks it was July.

Mr. CHAPMAN — That is to be fixed hereafter.

Mr. OLMSTEAD — Let us know when the conversation was.

Mr. CHAPMAN — The witness states that he cannot give the date, but it was after Duncan, Sherman & Co. failed.

[This testimony is taken subject to objection.]

Q. State fully what occurred between you and Mr. Ellis?

A. To the best of my recollection he asked me what I thought would be the effect produced if he proceeded summarily to wind up the Third Avenue Savings Bank; I told him in reply that there was, of course, considerable excitement prevailing in the community growing out of the unexpected failure of Duncan, Sherman & Co., and that it was desirable at such times to endeavor, so far as it could be done properly, to allay excitement; that he should exercise a wise discretion, having reference to the interests of savings bank depositors generally.

Q. Go on and state fully what occurred between you and him?

A. He said that if he began with one bank it was likely that there were others that he should have to deal pretty summarily with, too; and I remarked to him that in the case of the Third Avenue Savings Bank he was to consider whether there was any thing in the condition of

that bank that had not existed for a year or two; I don't know that it is proper for me to state my impressions at all.

Q. I think so.

A. I felt that that bank had been in an unsound condition for some time, and that unless there was some reason for proceeding just at that time during the excitement then prevailing, that it would be for the interests of the depositors of that bank, as well as for the interests of the depositors in many of the other savings banks, that he should move cautiously; in reply Mr. Ellis stated that he had consulted several gentlemen in regard to the same matter, in whose judgment he had confidence, and that their advice was similar; that is about all that occurred, sir.

Q. In that conversation did he inform you that he had made an examination of the bank and found it insolvent, or that in substance?

A. That is stating it pretty broadly; I think he stated, that in his judgment the bank required attention; I won't say that he said it was insolvent.

Q. Do you recollect of his speaking something of this kind; that it would have to be closed up and there were several others that would follow?

A. He did, sir; and the advice which I gave him was based upon his statement that several others would follow.

Q. And you recollect the fact that after it was closed up, several others did follow, don't you?

A. Yes, sir.

Q. About a dozen of them?

A. About a dozen.

Q. Do you recollect of making any suggestion to him in regard to the real estate bringing better prices in the fall, probably?

A. I don't recollect having said to him that I thought it would, though I may have done so.

Q. Do you recollect of saying to him that the effect would not be as disastrous if it was closed up after the summer vacation when the feeling was somewhat allayed — this excitement?

A. I recollect stating to him that it would perhaps be better to wait until the excitement growing out of the failure of Duncan, Sherman & Co., had in a measure subsided; I don't think I stated to him that it would be better to defer it until fall, because I don't think fall is generally the best time of the year to proceed to wind up an institution.

Q. You don't recollect making any allusion to the summer vacation one way or the other?

A. I do not.

Q. You could not say that there was no such expression?

A. No, sir; the idea was that just at that time when that excite-

ment was prevailing it might be disastrous for him to proceed summarily to wind up that, to be followed by several other savings banks, and it was in the interests of the depositors generally that the remark was made.

By Mr. OLMSTEAD :

Q. Did Mr. Ellis inform you fully of the condition of this Third Avenue Savings Bank ?

A. No, sir.

Q. Did he exhibit to you any reports made to him or by him relative to that bank at that time ?

A. He did not, sir.

Q. Did he inform you that on January 1, 1875, the secretary of that bank had made a report to the bank department to the effect that there were about \$7,000 surplus money in the bank, and that on March 22, 1875, his own examiners, Mr. Reid and Aldrich, had reported a deficiency of upwards of \$219,000 in that bank ?

A. No, sir ; Mr. Ellis gave me no particulars ; the conversation was general ; I certainly would not have given any advice where the particulars were presented to me, without considering it.

Q. He did not give you that information ; would you have given him the advice to continue that bank if you had known that there was a deficiency in the bank of \$219,000 ?

[Objected to.]

Question repeated. Would you have given him the advice to continue that bank if you had known that there was a deficiency in the bank of \$219,000, and would you have advised that it should continue to receive subsequent deposits ?

A. The latter part of it I can answer unhesitatingly ; I would not have advised him to allow them to receive subsequent deposits ; in regard to the former, I don't feel competent to answer the question, not having the particulars presented to me at the time.

Q. If you had been conducting the bank, you perhaps would have endeavored to protect the public as much as you can against the consequences of the failure, but you would not have allowed the bank to receive deposits ?

A. I would not have allowed the bank to receive deposits — upon the statement that you present to my mind.

Q. Would you or would you not have considered it your duty as a superintendent of the banking department, knowing that there was a deficiency in the bank of upward of \$219,000, to have notified the attorney-general of that fact.

[Objected to.]

A. I don't feel competent to answer the question what I would have done as superintendent, because I had no experience as superintendent of the bank department, and a man cannot tell what he would do.

Q. Would you have considered it your duty to have notified the proper officers who had charge of closing the bank, of that fact, if you had known it—the fact that there was a deficiency of upwards of \$219,000?

A. I think I should have felt it my duty to have wound up the bank if I knew there was a deficiency of \$150,000; the only question presented to me—if I am permitted to say by way of explanation—bearing upon this, was whether that was the proper time to do it or not.

Q. You only gave him general advice, I understand, in such general way as you have mentioned here, that it was his duty, all other things being equal, to do whatever was proper to protect the general banking interests and the depositors?

A. That is it, sir; the conversation was entirely general, and no particulars given.

Q. If the same general condition of the bank had existed two years previously, that existed at that time, about March, 1872, and that fact had been brought to the knowledge of the bank superintendent, would you have thought it proper for him to continue that bank under any circumstances, for two years and six months?

[Objected to.]

A. I would answer that by saying that my impression has been unfavorable in regard to the Third Avenue Savings Bank for two or three years, and that I knew of no special reason why summary steps should be taken just at that time, that had not existed previously.

Q. That is hardly an answer to the question; question repeated.

[Objected to.]

Q. I show you the report of the examiners of April 14, 1873, and also the report of the examiners of March 22, 1875?

A. This appears to show a deficiency of \$5,000.

Q. Will you please look over the securities that were held by that bank at that time, and state whether in your opinion, at that time, in 1873, that the bank was in a solvent condition?

[Objected to, first, that it is not within any of the charges made; second, that Mr. Ellis is not charged with being negligent prior to the report of March, 1875; again it calls for the opinion of this witness as to what he would have done; again, that it is speculative; again, that he is not shown to have known other facts bearing upon the question, such as the supreme court had passed upon, such as that there had been an examination of five months of this same bank the year before by the bank department; also, that the examiner who reported this to Mr. Ellis, in 1873, reported that the deposits were in-

creasing and generally in favor of continuing the bank; that there was an excess of income over expenditure; that these and other elements may influence his decision if he had known in regard to it. Objections overruled.]

Q. You are familiar with the value of such assets, are you not?

A. I don't wish to call myself an expert in such matters.

By Senator ST. JOHN:

Q. You have a general knowledge?

A. I have a general knowledge; it is impossible, looking at a report retrospectively, to say what a man would have done under the circumstances; but with the light which I now have, with this report in my hand, I should say that it would be the duty of the superintendent to close it up; I see assets here that I think comparatively worthless.

Q. Please look at the report of George W. Reid and W. F. Aldrich, of March 22, 1875, on page 330 of the report of 1875, and answer the same question in regard to that report, taken in connection with the former report?

A. This shows it had not improved.

Q. It shows a large deficiency; your answer would be the same in regard to this as to the former question?

A. It showed no improvement, rather the reverse; it shows one item, I observe, that is not in the other, of individual bonds; I don't know what value is to be attached to that.

Q. You observe a deficiency of \$219,000 and upwards?

A. I observe an apparent deficiency of \$44,000.

Senator ST. JOHN — That is a deficiency of income, and if you look above you will find a deficiency in assets of \$219,000.

The WITNESS—Yes, sir; I see a decided increase in the deficiency—an increased deficiency in the assets.

Q. Over \$219,000; that would be conclusive in your mind, would it not, as to the condition of that bank, taken in connection with the other report?

A. I think there is no doubt of that, sir.

Q. The general condition of this Third Avenue Bank among business men in the city was rather notorious, was it not?

[Objected to. Objection sustained.]

Q. Did the closing of the Third Avenue Savings Bank, in your opinion, have any influence upon the closing of the other banks which closed that year, so far as you know?

A. The condition of the Third Avenue Bank, as I have before remarked, had become chronic, and I don't think it did have a very great influence.

By the CHAIRMAN : •

Q. Suppose Mr. Ellis had closed it at the time he first talked with you about it, what do you think would have been the effect then ?

A. I think it might have increased the uneasiness prevailing among depositors of savings banks, and the fear was that it might lead to a general run on the savings banks.

By Senator WELLMAN :

Q. Relative to the examiners' report of 1873, you state that looking at it from the light which you now have, you would, upon the showing of that report, have felt it your duty if you were superintendent of the banking department to have proceeded to close the bank ; would you have done so if you had known that your predecessor had just made the effort to do so and had failed, only a short time previously—the court not permitting him to do so ?

A. If the court had intervened to prevent a proceeding, I think it might have justified me in not acting ; the responsibility rests with the court then and not with me.

By Mr. CHAPMAN :

Q. Would not the fact of your predecessor having made the year before a protracted and thorough investigation of the bank in conjunction with the court, and having accepted these individual bonds and passed them — would not that have had an influence in determining your action ?

A. Certainly.

Q. I will ask one other thing ; whether, if you were looking at this report in the light of the knowledge you have had and your own experience in connection with savings banks and your knowledge of their condition here in the city ; would you make this suggestion in the light of all those facts ?

A. I would.

Q. Mr. Ellis came into the bank department only the latter part of 1873, with no knowledge of the savings banks ; he had to take the matter up new, investigate the reports, investigate the condition of all these and get the run of these matters ; isn't that an element that would enter into the question in your mind as to whether he would naturally have acted at that time or not ; isn't it an element that would enter into the case ?

A. Yes, I think it would.

Q. Is not another element in there the rules of the department and the action of his predecessor in regard, not only to this bank, but other banks ; is that not an element that would also enter into the question ;

not conclusive, perhaps, but an element to be taken into consideration, in conjunction with the other elements of the case?

A. I should not attach very great importance to that, because I think that when the superintendent assumes the responsibilities of the position he must act for himself and he must form his own judgment and must not be influenced too much by the action of his predecessor.

Q. Not too much; but still it is an element undoubtedly; it is an element?

A. How much importance he should attach to it is another question.

Q. That would be a question of opinion for the man himself to pass upon?

A. It would; in other words, sitting here, looking at it retrospectively, is a very different thing from taking it up with the surrounding circumstances and passing judgment then.

Q. Now, I will ask one other thing: Is it not, in your opinion, true, the worse the condition of the bank at the time Mr. Ellis consulted you in 1875, would not the shock on the street and the market have been worse? In other words, if, instead of its being a small deficiency, there had been a very large deficiency — instead of being \$50,000, there had been \$500,000 deficiency, wouldn't it have made a worse shock? Wouldn't the tendency of it have been in that direction?

A. Yes, sir, it might have been, but at the same time that would not have influenced any advice which I gave; it was simply that the proceeding to wind up this bank, to be followed by several others, in the exceptional state of the market just at that moment, might have been prejudicial to the general interests of depositors.

Q. If the bank had stopped receiving deposits, that would have wound it up right along, wouldn't it? The effect would be the same?

A. I think it would; I would not be positive upon that point; I think it might.

Q. The question, as I understand, between you and Mr. Ellis was as to the advisability of winding it up right along?

A. The advisability of doing it just at that special time; not whether it should be postponed a week, or two weeks, or a month, but whether he should wait until the excitement growing out of that failure had subsided in a degree.

By Mr. OLMSTEAD:

Q. Would you not consider that the worse the condition of the bank, the more reason there would be for refusing to receive deposits?

A. Certainly.

Q. Do you know generally about how much money is invested in this city in savings banks?



Mr. CHAPMAN — About \$180,000,000 ?

A. I would make a guess of about \$150,000,000.

Q. Would you not consider it the duty of the bank superintendent, who has confided to him such large interests, to become competent for his duties immediately upon his assuming office ?

[Objected to. Objection sustained.]

By Senator ST. JOHN :

Q. You speak of the condition of this Third Avenue Bank as having become chronic ; you mean by that that it was a bank not in good repute for some time ?

A. It had not been for some time.

Q. Then I want to ask the question whether the winding up or the failure of that bank would produce any such influence upon the money market or commercial circles here as the failure of a bank which was supposed to be in good credit and standing ?

A. Not at all.

A. *Sellers*, recalled.

By Mr. OLMSTEAD :

Q. Are these books that you now produce the books of the Third Avenue Savings Bank ?

A. Yes, sir.

Q. In the hands of a receiver ?

A. Yes, sir.

Q. Will you please state what they are ?

A. The ledgers, journals, bond and mortgage books, minutes of the trustees, and books generally of the bank ; that is, a portion of them.

Q. Are you familiar with the books ?

A. Yes, sir.

Q. You have examined them ?

A. I have.

Q. And the entries ?

A. Yes, sir.

Q. Can you turn to the entry in the book showing the cost of the banking property ?

A. Yes, sir.

Q. Will you be good enough to do so ?

A. Ledger No. 3, folio 462.

Q. Does that entry show the cost of the banking-house ?

A. Partially ; there is a balance brought over from another ledger where the entries commenced.

Q. Please look at that former entry ; I think you have testified that you were an accountant ?

A. Yes, sir ; from the ledger that precedes ledger No. 2, the entries are brought over to No. 3.

Q. Can you state from the entries in those ledgers what was the cost of the banking-house property ?

[Objected to, on the ground that the superintendent acted on the report of the examiners, and knew nothing more in regard to it, and could not know any more in regard to it than that.]

The committee rule that the witness may state what appears from the books in regard to the banking-house property at the time of the examination in the spring of 1873, but not previous to that time.

Q. State what the books say about the cost of the banking-house in March, 1873 ?

A. In March, 1873, the cost of the banking-house appears to have been \$200,385.05 ; that is what the books show.

Q. Does that appear to be the true cost ?

[Objected to.]

Q. Please read the entry in regard to that real estate at folio 107 of Ledger No. 2, commencing in January, 1871, and ending in March, 1873 ?

[Objected to, on the ground that it was before Mr. Ellis had any thing to do with the bank.]

Q. Is a footing entered under March 31, 1873 ?

A. Yes, sir.

Q. What is that footing ?

A. Just what I have stated, \$200,385.05 ; it shows by the books that that was the cost of that real estate at that time.

Q. Please look at the book and state what items of the account go to make up the \$200,385.05 ?

A. All that has gone before it in the account.

Q. Please look at the account and state what items in the account go to make up that sum ?

[Objected to, on the ground that the inquiry goes back to the time the account was opened, and before Mr. Ellis was superintendent ; also that Mr. Ellis acted on the report of the examiners which came to him.]

The committee rule that only entries subsequent to the 31st of March, 1873, are admissible,

By Senator ST. JOHN :

Q. Does the book show when the property was purchased ?

A. The purchase of the lot seems to have been made in 1863, but it was not built on for some time.

By Mr. CHAPMAN :

Q. I understand the balance to be substantially the same back to January, 1869 ; about \$200,000 ?

A. Yes, sir.

By Mr. OLMSTEAD :

Q. Please to turn to profit and loss account ; give the condition of the profit and loss account from January 1, 1873.

[Objected to.]

The committee rule that the condition of the account cannot be given previous to the examination of April, 1873.

Q. Please look at the book, and state whether the bond of \$115,000 appears upon the books as an asset upon April 14, 1873 ?

A. No, not \$115,000 ; \$100,000 does, and \$15,000 afterward.

Q. Is it an asset ?

A. Yes, sir ; credited to profit and loss ; consequently it is an asset ?

Q. Did it belong there as an asset ?

[Objected to. Objection sustained.]

Mr. Olmstead proposes to prove that the entry as to the \$115,000 is a fraudulent entry, and is obviously so on the books.

[Objected to as immaterial ; also that it occurred before Mr. Ellis was superintendent ; also that the bonds themselves were in the department ; also that they had been passed upon by the prior superintendent.]

Mr. Olmstead puts in evidence the following bonds :

KNOW ALL MEN BY THESE PRESENTS, that we, William A. Darling, John H. Lyon, Daniel Bates, W. D. Bruns, William B. Harrison, James Stephens, Andrew Stevens, James Owens, Richard Kelly, D. D. T. Marshall, David Morgan, George Henken, Jr., Thompson W. Decker, William S. Opdyke and John Lacey, in consideration that the Third Avenue Savings Bank of the city of New York, upon the request of each of us hereby made, does continue its ordinary business after the fifteenth day of January, 1873, and in further consideration of the mutual covenants hereof, do hereby agree with each other to bind ourselves respectively, and are hereby severally bound, each for himself, his respective heirs, executors and administrators, and not one for the other, to pay unto the said Third Avenue Savings Bank of the city of New York, its successors or assigns, on the first day of January in the year one thousand eight hundred and eighty-three (1883) or six months after a demand therefor, the following sums respectively, viz: The

said William A. Darling the sum of fifteen thousand dollars (\$15,000), the said John H. Lyon the sum of five thousand dollars (\$5,000), the said Daniel Bates the sum of ten thousand dollars (\$10,000), the said W. D. Bruns the sum of ten thousand dollars (\$10,000), the said William B. Harrison the sum of ten thousand dollars (\$10,000), the said James Stephens the sum of ten thousand dollars (\$10,000), the said Andrew Stevens the sum of ten thousand dollars (\$10,000), the said James Owens the sum of five thousand dollars (\$5,000), the said Richard Kelly the sum of ten thousand dollars (\$10,000), the said D. D. T. Marshall the sum of twenty-five hundred dollars (\$2,500), the said David Morgan, George Henkin, Jr., Thompson W. Decker, William S. Opdyke each the sum of twenty-five hundred dollars (\$2,500), and the said John Lacy the sum of twenty-five hundred dollars (\$2,500), with interest in each case on the said amounts respectively, from the first day of January, 1873, at the rate of seven per centum per annum, payable on the first days of January and July in each year, until the principal sums are paid or discharged.

And it is expressly agreed by and between the parties hereto, that the payments made on account of either the principal or interest of this bond shall not be claims against the said savings bank, nor constitute a debt of the said savings bank, except, however, that all payments so made shall be returned, with interest, by the said savings bank, pro rata out of any actual surplus acquired by it exceeding the sum of one hundred thousand dollars; such payments to be made by the said savings bank pro rata until the whole amounts paid hereunder shall be returned with interest.

And the said Third Avenue Savings Bank does receive this bond upon the terms herein expressed, and further agrees that whenever an actual surplus exceeding the amount of fifty thousand dollars shall have been acquired by it, then the rate of interest upon the several sums secured by this bond shall be reduced to such extent as shall not impair such surplus, and that proportionate interest shall be allowed and paid by it upon all sums of money actually paid on account of the principal sums secured hereby.

And the said savings bank does further agree that whenever the actual surplus acquired by it shall amount to the sum of ten thousand dollars exclusive of this bond, then this bond shall be discharged and the several obligors thereof be forever released therefrom.

In witness whereof, we have hereunto set our respective hands and seals, and the said savings bank has hereunto affixed its corporate seal and caused these presents to be attested by its officers this twenty-eighth

day of December, in the year one thousand eight hundred and seventy-two.

In the presence of

WM. A. DARLING, (L. S.)  
 JOHN H. LYON, (L. S.)  
 DANIEL BATES, (L. S.)  
 WM. D. BRUNS, (L. S.)  
 W. B. HARRISON, (L. S.)  
 JAS. STEPHENS, (L. S.)  
 ANDREW STEVENS, (L. S.)  
 JAMES OWENS, (L. S.)  
 RICHARD KELLY, (L. S.)  
 D. D. T. MARSHALL, (L. S.)  
 DAVID MORGAN, (L. S.)  
 GEO. HENCKEN, JR., (L. S.)  
 P. W. DECKER, (L. S.)  
 WM. S. OPDYKE, (L. S.)  
 JOHN LACY, (L. S.)

The word "severally," interlined on the eighteenth line of the first page before execution.

HENRY C. WEEKS.

STATE OF NEW YORK, }  
*City and County of New York,* } ss.

On the 28th day of December, 1872, personally appeared before me W. A. Darling, Daniel Bates, Wm. D. Bruns, Wm. B. Harrison, Jas. Stephens, Andrew Stephens, James Owens, David Morgan, Geo. Hencken, Jr., T. W. Decker and W. S. Opdyke, and also on the 30th day of December, 1872, personally appeared before me Jno. H. Lyon, Richard Kelly, John Lacey and D. D. T. Marshall, known to me to be the individuals described in and who executed the foregoing instrument and severally acknowledged that they executed the same for the purposes therein contained.

HENRY C. WEEKS, *Notary Public.*

DANIEL BATES, *Vice-President.*

DAVID MORGAN, *Secretary.*

[L. S.]

STATE OF NEW YORK, }  
*City and County of New York.* } ss :

On the 30th day of December, 1872, before me came David Morgan, with whom I am personally acquainted, who, being by me duly sworn, did depose and say, that he resides in the city of New York ; that he is the secretary of the Third Avenue Savings Bank, to him known to be the same corporation described in and which executed the foregoing instrument; that the seal affixed to said instrument is the corporate seal of said corporation, and was affixed thereto by its authority, and that he, its secretary, and Daniel Bates, its vice-president, subscribed their names thereto by like authority.

HENRY C. WEEKS,

*Notary Public, New York Co.*

*Know all men by these presents,* That I, Spencer K. Green, of the city, county and State of New York, in consideration that the Third Avenue Savings Bank, at my request, does continue its ordinary business after the 19th day of January (1874), one thousand eight hundred and seventy-four, do hereby bind myself, my heirs, executors and administrators, to pay unto the said The Third Avenue Savings Bank, its successors and assigns, on the first day of January, one thousand eight hundred and eighty-three (1883), or six months after demand therefor, the sum of fifteen thousand dollars (\$15,000), with interest from the first day of January, one thousand eight hundred and seventy-three (1873), at seven per centum per annum, payable on the first days of January and July.

And I expressly agree that the payments made on account of either the principal or interest of this bond shall not be claimed against the said savings bank, nor constitute a debt of the said savings bank, except, however, that all payments so made shall be returned with interest by the said savings bank, out of any actual surplus acquired by it, exceeding the sum of one hundred and fifteen thousand dollars.

And the said Third Avenue Savings Bank does receive this bond upon the terms and conditions herein expressed, and further agrees, that whenever an actual surplus, exceeding the amount of fifty-seven thousand five hundred dollars (\$57,500) shall have been acquired by it, then the rate of interest upon the sum secured by this bond shall be reduced to such extent as shall not impair such surplus, and that interest shall be allowed and paid by it upon all sums of money actually paid on account of the principal sum secured thereby.

And the said savings bank does further agree that, whenever the actual surplus acquired by it shall amount to the sum of ten thousand dollars, exclusive of this bond, and of a certain other bond, dated 28th December, 1872, made by William A. Darling and others, then this

bond shall be discharged, and the obligor thereof be forever released therefrom.

In witness whereof I have hereunto set my hand and seal, and the said savings bank has hereunto affixed its corporate seal and caused these presents to be attested by its officers this 31st day of December, in the year one thousand eight hundred and seventy-three.

SPENCER K. GREEN, [L. S.]

DAVID MORGAN,

*Secretary.*

In presence of HENRY C. WEEKS. [L. S.]

STATE OF NEW YORK, }  
City and County of New York, } ss.:

On the seventeenth day of January, 1874, personally appeared before me Spencer K. Green, to me known to be the individual described in, and who executed the foregoing bond, and acknowledged that he executed the same for the purpose therein contained.

W. B. HARRISON,

*Notary Public.*

The words, "and upon condition that the said bank continues its said business until the first day of January, one thousand eight hundred and seventy-seven (1877)," in lines 8, 9, 10, 11 and 12, on first page, first stricken out, and the words "four (1876)," in line 22 on same page also stricken out, and the words "three (1873) and per annum," interlined before execution.

W. B. HARRISON.

STATE OF NEW YORK, }  
City and County of New York, } ss.:

On the seventeenth day of January, 1874, before me came David Morgan, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides in the city of New York; that he is the secretary of the Third Avenue Savings Bank, to him known to be the same corporation described in and which executed the foregoing instrument; that the seal affixed to said instrument is the corporate seal of said corporation, and was affixed thereto by its authority, and that he, David Morgan, its secretary, and T. W. Decker, its president, subscribed their names thereto by like authority.

W. B. HARRISON,

*Notary Public.*

*Frederick Smythe*, being duly sworn, testifies as follows :

By Mr. OLMSTEAD :

Q. Are you the attorney for Mr. Hurd, the receiver of the Third Avenue Savings Bank ?

A. I am.

Q. And you have produced here the bonds which have just been offered in evidence ?

A. I have, under a subpoena.

Q. Have you commenced an action or actions on those bonds ?

A. Yes, sir.

Q. In what court ?

A. The supreme court of this State.

Q. Have you the summons and complaint with you ?

A. I have the original summonses and complaint, and I have the answers in all the cases where answers have been interposed.

Q. Whose answers are they ?

A. I will have to look at them and see [examining the papers], I have the summonses and complaint in the case of George Hencken, Jr., and I have also the answer.

Mr. Chapman objects to detailing the papers on the ground that the committee has already ruled that the matter is not competent evidence.

By the CHAIRMAN :

Q. What is the date of those papers which you have ?

A. The summons in this action is dated the 24th of July, 1876.

By Mr. CHAPMAN :

Q. All of these are actions by the receiver ?

A. Yes, sir.

The committee rule that the papers are not admissible.

By Mr. OLMSTEAD :

Q. Are most of the parties to the bonds sued ?

A. Yes, sir.

Mr. Olmstead offers in evidence the complaints and the answers in the several suits referred to, and offers to prove by them that the defendants set up that the bonds were fictitious and void, and not assets of the bank.

[Objected to as immaterial and improper, that these are the actions of third parties, and never have been brought to Mr. Ellis' attention, and were after the appointment of a receiver, and have no bearing on the questions at issue before this committee. Objection sustained.]



*James M. Morrison*, a witness called on behalf of the defendant, being duly sworn, testifies:

By Mr. CHAPMAN:

Q. You reside in this city?

A. I do, sir.

Q. How long have you resided here?

A. About 52 years.

Q. You are president of the Manhattan Bank?

A. I am, sir.

Q. Is that a State bank?

A. It is, sir.

Q. Do you know Mr. Ellis?

A. I do, sir.

Q. How long have you known him?

A. I cannot tell you exactly how long; several years.

Q. Do you recollect of the occurrence of Duncan, Sherman & Co.'s failure?

A. I do, sir.

Q. Can you give us the date when that was, or don't you know?

A. No, sir; I was not interested particularly in it, and therefore did not charge my mind with the date.

Q. Do you recollect shortly after that failure, of Mr. Ellis coming to see you and talking with you in regard to whether it would be advisable for him to close up the Third Avenue Savings Bank at that time?

A. I do recollect of Mr. Ellis having called some time after probably the failure of Duncan, Sherman & Co.; I cannot give any date.

Q. What view did you express to him as to whether it was policy or proper for him to close up the bank at that time, in the midst of that excitement?

Q. Do you mean bank or banks?

Q. Well, the Third Avenue Savings Bank, with the possibility of other banks following after that was closed up?

A. I cannot speak in the singular number.

Q. What occurred, as you now recollect it, between you and Mr. Ellis in relation to the matter?

A. Two years have elapsed since that time, and it is difficult for a man to remember every word of conversation; I will do the best I can; I will not vouch for the accuracy of every word I say, but I will say as near as my memory permits me; Mr. Ellis did call at the Manhattan Bank, as he was wont to do occasionally from time to time, and found myself and the cashier, and we had a conversation; I recollect

of that conversation particularly, because it related to the savings banks.

By Mr. OLMSTEAD :

Q. Can you give the date ?

A. I cannot give the date.

By Senator ST. JOHN :

Q. It was after the failure of Duncan, Sherman & Co. ?

A. Yes, sir ; that is the only way I can place it ; it may be two years ago ; it is a long time ; I dismissed the matter from my mind ; Mr. Ellis had an interview with us, the cashier and myself, in a conversational way, and he stated, I think — I will not state positively the words, but I give you impressions and my memory of what was said — I think Mr. Ellis on that occasion said, that he had been to see one or two gentlemen in Wall street with reference to his position — with reference to the savings banks then being called in question — something to that purport ; that he understood there was a panicky feeling in the community, and under these circumstances these gentlemen whom he had seen before coming to us, felt that it was rather a time when caution was necessary, no abrupt act to be done, so as to inflame the feeling that was then existing, the panic growing out of the failure of savings banks and Duncan, Sherman & Co., and others ; I think he submitted a question to us something of this kind : Whether it would be expedient and proper policy, beneficial in general, that he should be prompt in winding up the institutions ; something of that kind, and I think we gave it to him as our opinion — I speak in the plural number because I have had a conversation with my cashier this morning, supposing that such a question would be put to me, to see if his memory and mine could be brought near each other, so that if my memory was wrong I wanted it to be right — I think we agreed, myself and the cashier, as to what I am now saying to you — that Mr. Ellis submitted to us the question, first expressing his own opinion in view of what he had heard as to the panicky state of feeling, whether it would be proper to be abrupt, to be prompt or to take any immediate action to close up the savings institutions in the city that required his attention ; I think that is about all I could say as to what Mr. Ellis said ; now, as to what we said to him : The cashier and I both agree this morning, talking the matter over, that we said to him that we could not decide that question, but that it was a panicky time, and in such times it was well not to increase the panic by any immediate action where no loss could occur from a little delay, and that we had no hesitation in saying that where no loss would likely occur by a delay,

it would be an advantage to the feeling in the community at that time, by way of allaying the feeling that then existed ; I don't know that I could say any more than I have said.

By Mr. CHAPMAN :

Q. You cannot give the words of that conversation ?

A. No, sir ; if you had called upon me a month after that time I might have done it, but I cannot now.

By Mr. OLMSTEAD :

Q. Did Mr. Ellis at that time exhibit to you a statement of the condition of the Third Avenue Savings Bank ?

A. No, sir.

Q. And you were not informed of it ?

A. No, sir.

Q. You did not know that a deficiency had been reported on the 22d and 23d of March of \$219,226.81 ?

A. I would say that I did not know ; I don't recollect.

By Senator ST. JOHN :

Q. I want to make an inquiry whether you had any knowledge of the assets of this bank, the character of them, what they were ?

A. Of what bank ?

Q. The Third Avenue Bank ?

A. I had not, sir.

Q. You had no knowledge of what the assets of that bank consisted of ?

A. No, sir ; I am not interested in any way particularly.

Q. And was not informed by Mr. Ellis ?

A. I will not undertake to say that ; I have no recollection of it ; no statement was presented to me.

*Adolph G. Dunn*, being called on behalf of the prosecution and duly sworn, testifies :

By Mr. OLMSTEAD :

Q. You reside in this city ?

A. I do.

Q. Were you a trustee of the Third Avenue Savings Bank at one time ; and if so, how long ?

A. I was a trustee of the Third Avenue Savings Bank for about twelve or thirteen years.

Q. When did you cease to be a trustee ?

A. I resigned in 1872.

Q. Were you acquainted with the value of the assets of the Third Avenue Savings Bank in the month of March, 1875?

A. No, not in 1875; I was not then present in the city of New York.

Q. Were you acquainted with the value in 1874?

A. No; I only know that the value of property in general was lower than in 1872, when I left the bank, and in 1873 I went to Europe.

Q. What time in 1873 did you go to Europe?

A. In April; it is now four years.

Q. You knew the condition of this bank when you left?

A. Yes; very well.

By Mr. CHAPMAN:

Q. When you left it?

A. When I left the bank.

By Mr. OLMSTEAD:

Q. Did you not interest yourself in the affairs of the bank after you left?

A. I interested myself so far as to make a statement of the affairs of the bank to the superintendent, Mr. Howell.

Q. Who made that statement?

[Objected to.]

Q. Did Mr. Hennessey make it with you?

[Objected to, on the ground that it already appears that it was a statement made to Mr. Howell; that there is no evidence of its having been brought to Mr. Ellis' attention; that it is entirely immaterial as to what statements were made to Mr. Howell.]

Q. Did you make it to Mr. Howell as bank superintendent at Albany?

A. I made it to Bank Superintendent Howell in the bank department in Albany.

Q. Did you send the documents there?

A. I went there myself.

[Question objected to. Objection sustained.]

Mr. Olmstead proposes to prove by this witness that in 1871 himself and Mr. James Hennessey, acting as a committee, made a report to the bank department at Albany, in which they showed that the bank was wholly and entirely insolvent; and also proposes to show by him that the deficit of the bank at that time was \$400,000 or thereabouts, and that Mr. Ellis, the present superintendent, in investigating the affairs of the bank, and his assistant, must have known that fact, and they cannot have failed to discover it with the most cursory examina-

tion of the accounts of the bank; that the matter was a matter of public notoriety in the city and among all bank officers of the city.

[Objected to, on the ground, first, that the objection is made for buncombe; second, that it is entirely immaterial; third, that the report itself is the best evidence; fourth, that it appears from the evidence already in the case that in 1872 the former superintendent, Mr. Howell, to whom it is claimed this report was made, made an examination of some five months into the affairs and condition of this bank in conjunction with the supreme court; that an application was made to the supreme court to dissolve the bank, appoint a receiver and enjoin it, which was refused. Objection sustained.]

Q. Were you acquainted generally with the books of the bank?

A. Somewhat; yes, sir.

Q. And with its papers and documents?

A. Yes, sir.

Q. In your opinion, could two examiners have fully examined into the condition of this bank in two days?

[Objected to as immaterial, and that the witness left the country in the fore part of April, 1873. Objection sustained.]

Q. Were the two bonds of \$100,000 and \$15,000 among the archives of the bank while you were trustee?

A. No, sir; not when I was there.

Q. Do you know the cost of the assets of the bank which appear upon the statement now shown to you, being an examination by Geo. W. Reid and W. F. Aldrich, of March 22 and 23, 1875? [Handing witness the report.]

A. There are only two houses which were the property of the bank in the time when I was trustee; that is, the house in Fifth avenue at the corner or near Eighty-fifth street, which is marked down \$85,000, and the banking-house Third avenue corner Twenty-sixth street, and the house and lot adjoining; the other property must have been acquired after I was a trustee.

Q. Do you know what the cost of that banking-house was?

[Objected to.]

Q. Do you know what the cost of the Fifth avenue house was?

[Objected to as immaterial and that it was purchased prior to Mr. Ellis' time.]

Q. Did the bank build that banking-house?

A. The bank built it; in regard to the Fifth avenue house it was not bought by the Third Avenue Savings Bank; it was exchanged.

Q. What was its value?

[Objected to, on the ground that the witness has already sworn that he did not know what the value was in 1875, and that he had then

been nearly two years in Europe, and that he is not competent to state].

By Senator ST. JOHN :

Q. Did you say that you did not know what the value was in 1875?

A. I was not here; I only knew what the price was of the Fifth avenue house in 1872.

By Mr. OLMSTEAD :

Q. Do you know whether the value of real estate in this city had decreased or increased from 1870 to 1875 ?

A. According to my impressions it has decreased considerably.

Q. Universally so ?

A. Yes, sir.

Q. Now I ask you the cost of that property ?

[Objected to.]

Q. State the value of it at that time ?

[Objected to as immaterial; that the witness was not here for a year and a half or two years prior to that; that he has already sworn that he does not know the value in 1875; that he only knows the cost while he was trustee; and the question of cost is immaterial, the question being as to its value. Objection sustained.]

Q. Why did you leave the bank ?

[Objected to. Objection sustained.]

Q. Were the trustees of this bank arrested ?

A. Not in the time I was in New York.

Q. You never knew any thing about that ?

A. No, sir.

Q. You was not arrested ?

A. No, sir; I was not here.

*Benjamin A. Mac Donald*, called on behalf of the prosecution, being duly sworn, testifies as follows :

By Mr. OLMSTEAD :

Q. Where do you reside ?

A. City of New York, Westchester county.

Q. What is your business ?

A. Accountant and expert.

Q. Have you examined the books of the Third Avenue Savings Bank with a view of informing yourself of the condition of the bank during the years 1873, 1874 and 1875 ?

A. I did, sir, thoroughly.

Q. Please go on and state your connection with this matter, and what you have discovered in examining the books?

A. I propose to give it in a narrative form, confining myself strictly to all the transactions that appear on the books after Mr. Ellis was inducted into office as superintendent, and up to the time of the closing of the bank, and state my connection, and state the manner in which I became familiar with the history of the savings bank; I understand the committee to rule that it must be confined strictly to every thing that occurred after Mr. Ellis' induction into office. In the fall of 1873, shortly after the appointment of Mr. Carman as receiver of the Third Avenue Savings Bank, I called upon Mr. Ellis at Albany to obtain from him the tabulated statements of the Third Avenue Savings Bank; Mr. Ellis furnished me with tabulated statements of the Third Avenue Savings Bank from 1870 to 1875, inclusive; he also furnished me with a private examination made; or rather it had not yet been made public; an examination made by his experts in the preceding March, by which it was shown —

[Objected to.]

The WITNESS — I will give a narrative, and if you won't interrupt me I will give you the facts; I will state connectedly, which I propose to do, and I will confine myself strictly to the subject-matter.

[Objected to, on the ground that the contents of the paper would be best proven by the paper itself. What the paper shows, the paper will show now just as well as then.]

By Senator ST. JOHN :

Q. When was that report made?

A. In March, 1875.

By Mr. OLMSTEAD :

Q. Come right down to the conversation between you and Mr. Ellis?

A. Mr. Ellis, upon showing me this report, stated that he knew the condition of the bank in the preceding March, that they were short over \$200,000; I then said, "Why didn't you close the bank then and there?" he said the reason he did not do it was, that upon advice from parties — certain parties, not naming them — that it was deemed inexpedient, that it might create a panic; he said it might have been an error of judgment, "but I took their advice;" I said, "that was very unfortunate;" Mr. Ellis then presented me with an additional statement made by Mr. Carman, who at that time was the receiver, an informal statement of the condition of the bank on the 1st of July of that year, 1875; that was not a sworn statement, because the law had changed, and it was only necessary to make an annual statement instead of a semi-annual examination, as had hitherto been the case; in that report which Mr. Ellis showed me, and Mr. Carman stated —

[Objected to ; the report shows for itself.]

The WITNESS — There is no report ; it is not an official report ; it was a paper furnished by Mr. Carman, of which Mr. Ellis gave me a copy ; I may have it in my possession ; I then left Mr. Ellis and came to New York, and subsequently sent to him for the official reports — the certified copies, in order to obtain —

[Objected to.]

The WITNESS — Upon the reception of these details — the reports, I analyzed them and found that the bank had been insolvent —

[Objected to, on the ground, first, that this occurred after the receiver was appointed, or after the matter was handed over to the attorney-general, as already appears to be the case.]

The WITNESS — Mr. Carman was then receiver — the man that was secretary at the time the fraudulent report was made ; all the parties in interest were still in connection with the bank.

[Objected to, on the ground that what this witness did is immaterial. Objection sustained.]

The WITNESS — I shall show the condition of the books during the administration of Mr. Ellis and before the appointment of a receiver.

By Senator ST. JOHN :

Q. Do not say any thing about what occurred after the receiver was appointed ?

A. I am speaking of the act that was done ; I did this after the receiver was appointed ; I had the trustees of the Third Avenue Savings bank arrested —

[Objected to.]

By Mr. OLMSTEAD :

Q. When was it done ?

A. I think in October, 1875.

Mr. CHAPMAN moved to strike out what he had done.

The WITNESS — I will simply state what I learned by the books ; I made an examination of the books, and ascertained from the books that during Mr. Ellis' administration, for the period from July, 1874, to January, 1875, the entire dividends of the Third Avenue Bank declared to its depositors were made out of fraudulent entries made from December 31, 1872, up to and including June 30, 1874 ; the entire dividends ; I will give you the dates of the dividends and the amounts, and the amounts of the fraudulent entries.

Mr. CHAPMAN moves to strike out that evidence on the ground that it is not material on the question here. It is not embraced in the charge. We have received no notice of any thing of the kind. The



question of dividends has no bearing upon the question at issue before the senate or before this committee. That Mr. Ellis' attention has not been brought to this in any way; that under the law as it stands now, and as it stood then, he could not be chargeable, unless there was insolvency.

The WITNESS — I propose to show that it was.

[Motion to strike out denied.]

The WITNESS — I also discovered among what was stated to be among the assets of the bank —

By the CHAIRMAN :

Q. At what time ?

A. January 1, 1875, in the last statement that was made — included as an asset, a trustee's bond for \$115,000, which never was an asset.

Mr. CHAPMAN moved to strike out the last clause of the answer.

[Motion granted.]

Q. It is not denied that those bonds were in existence at that time ?

A. They were in existence at that time.

Q. Bonds given to the bank ?

A. Yes, sir ; as collateral for a contingency, and that contingency never appeared upon the books.

By Mr. OLMSTEAD :

Q. Does that contingency for which the bonds were given appear upon the books ?

A. No, sir.

Q. Was there any liability to counterbalance those bonds ?

A. No, sir ; when the bank examiners made their examination in March, 1875, there then existed upon the books of the bank a deficiency in the profit and loss account, after the payment of the dividends —

[Objected to, on the ground that it has no bearing upon the question.]

By Senator ST. JOHN :

Q. This has a bearing upon the report made by Mr. Reid to Mr. Ellis ?

A. Yes, sir ; most material.

[Objection overruled.]

By the CHAIRMAN :

Q. What item is there ?

A. The revenue of the bank.

By Mr. CHAPMAN :

Q. Do you know that those entries were in that ledger at the time the examiner was there, or were they written in afterward ?

[Objected to.]

A. I can say they were there.

Q. You know they were there ?

A. Yes, sir ; I will stake my life they were there ; the total interest received the first six months of the year 1874, was \$15,061.54, from January to July ; from July, 1874, to January, 1875, \$12,192.26.

By Mr. OLMSTEAD :

Q. That was for the year ?

A. Yes, sir ; that made the entire year, an aggregate of \$27,000, total interest received for the year 1874 ; the dividends paid on the 1st of July, 1874.

[Objected to. Objection overruled.]

The WITNESS — The dividends paid to depositors for the 1st of July, 1874, was \$40,472.18 ; the dividend declared for the 1st of January, 1875, was \$41,026.84 ; on the 30th of June, 1874, there was a false entry made to the credit of the profit and loss account, by raising the value of the real estate at Tarrytown, \$30,513.52 ; by that entry they were enabled to declare the dividend of July 1st, 1874 ; on the 1st of January, 1875, the amount as stated to be due the depositors from the books was \$66,617.28 less than it should have been ; the ledgers did not agree ; that is an additional liability of \$66,000 which did not appear in the examiners' report ; on the 1st of January, 1875, there was a debit balance to suspense account, of \$37,024.86 ; that should have been in the profit and loss account ; there is no such thing as a "suspense account" in a savings bank.

Q. What time was that dividend made ?

A. In January, 1875, the declaration was the 1st of January ; it was paid subsequently ; it was \$41,026.84 ; that was the last dividend declared.

By Senator ST. JOHN :

Q. There was no dividend in July, 1875 ?

A. No, sir.

By Mr. OLMSTEAD :

Q. Did you state when Mr. Ellis called on you ?

A. I called upon him at Albany, in October, after Mr. Carman had been appointed receiver.

Q. Would it have been a matter of difficulty for a man of ordinary experience in book-keeping to have discovered these errors which you pointed out ?

A. I discovered them in less than half an hour after I had access to the books, and any accountant could do the same thing.

Q. Do you know any thing about the proceedings which occurred at Albany for the appointment of a receiver there ?

A. By the records, yes, sir.

Q. State what you know, if any thing, about that ?

[Objected to. The records will show for themselves.]

Q. Have you any records in your possession connected with that matter ?

A. I sent for copies which we received at the time the application for the removal of Mr. Carman was made ; there are copies of the proceedings which I can produce.

Q. Are they on file at Albany to the best of your knowledge ?

A. They must be, because they are copied from the official papers ; there was the summons and complaint, the answer of the president of the Third Avenue Savings Bank and the order of the court appointing the receiver, Mr. Carman, all done on one day.

Q. What day was that ?

A. The 29th of September, 1875.

Q. Mr. Carman was the gentleman who acted as secretary ?

A. Yes, sir ; he made the report of January, 1875.

Q. Showing a surplus at that time ?

A. Yes, sir.

Q. Did you ever have any conversation with Mr. Ellis in respect to the appointment of Mr. Carman ?

A. I expressed my surprise that Mr. Carman should be appointed receiver.

Q. What did he say ?

A. Mr. Carman was urged by some very respectable gentlemen.

Q. Did he say so ?

A. Yes, sir ; he said that there was a number of very prominent gentlemen who went up with Mr. Carman.

Q. What did Mr. Ellis say to you about it ?

A. He knew nothing of Mr. Carman, except in his relations with the Third Avenue Savings Bank ; Mr. Carman professed to have taken every thing for granted that was presented to him.

Q. Did he say that he made any protest against the appointment of Mr. Carman ?

A. No, sir ; he knew nothing of Mr. Carman, except the report of values was at total variance with the real state of things.

Q. Is that all you know about this case ?

A. Yes, sir, included in that period.

*Cross-examined by Mr. CHAPMAN :*

Q. Did you give the language which Mr. Ellis used to you, when you went to him and talked about Mr. Carman's appointment ?

A. No, sir ; it was a casual conversation ; it was for nearly two hours ; Mr. Ellis treated me very kindly, and gave me every information in his power.

Q. When you spoke about tabulated statements, you meant printed statements ?

A. Yes, sir.

Q. Was there any document, or paper, or any thing which you called for, that he did not either let you see or give you a copy of ?

A. No, sir.

Q. Didn't seem to do any thing that he was trying to hide up ; or keep away from you ?

A. No, sir ; we had a long conversation ; I called his attention to a number of other banks in New York that were subsequently closed ; the People's, the Mechanics and Traders', the Central Park Savings Bank, and the Germania.

Q. Did he tell you who the gentlemen were who went there with him ?

A. No, sir.

Q. But he said there were some respectable gentlemen ?

A. Yes, sir.

Q. Did he so designate them as being respectable gentlemen ?

A. Of course ; he knew nothing of Mr. Carman except his connection with the bank, and that had only been a short time before the report of January, 1875.

Q. That was the only time you ever had any conversation with Mr. Ellis in regard to the matter at all ?

A. That is, a general conversation ; I subsequently saw him several times after the inauguration of the proceedings against the trustees

Q. You had no conversation in regard to what occurred up there in regard to the appointment of Mr. Carman ?

A. No, sir ; none.

Q. Whether these facts which you have discovered in these books were ever brought to Mr. Ellis' knowledge, you don't know ?

A. I do not ; I went upon the general principle that a superintendent ought to know.

Q. How many books have you got here ?

A. There are two ledgers and two journals, they are consecutive, two minute books, and a bond and mortgage book, and a bond and mortgage record.

Q. Will you tell me how long it would take to find out the difference in the deficiency which appeared between the general ledger and the

depositors' ledger — about how long it would take to ascertain the precise amount of that deficiency?

A. That I could not tell you without examining the books myself; I could not form an approximate idea.

Q. You have not?

A. I have never made that examination.

Q. That would be a pretty difficult thing, might it not be?

A. It might be; yes, sir.

Q. It might become necessary in order to ascertain that, to call in the pass-books, might it not?

A. It might; yes, sir.

Q. And in order to do that you would have to reach every separate depositor who had a pass-book?

A. Yes, sir; to compare the ledger.

Q. On all those deposit books being brought in, then that item could be verified?

A. Yes, sir.

Q. There were about 8,000 different persons, were there not, having deposits?

A. I think the report shows between 7,000 and 8,000 depositors.

Q. To ascertain that difference then, would require communication with the whole of these depositors?

A. I presume it would.

Q. Do you know how many books the bank has in which they kept their accounts, from the commencement?

A. I don't know of my own knowledge.

Q. This is only a portion of the books of the bank?

A. These are the material books.

Q. These are only a portion of the books in which the accounts of the Third Avenue Savings Bank were kept?

A. These are the full books, containing the assets and liabilities, the full and complete register.

Q. Are these all the books of the bank, in which accounts of the bank are kept?

A. No, sir; not all; outside of the depositors' ledger; but the aggregations are in these books.

Q. How long had this bank been doing business?

A. A very great many years; I think over 20; I think it was called The Bloomingdale originally, and then it merged into the Third Avenue.

By Mr. OLMSTEAD:

Q. Where is the statement of July 1, 1875, that you have referred to?

A. I don't know whether I kept a copy ; it was a mere slip, showing the liabilities to depositors and the assets and the surplus ; the surplus, I think, was \$6,000 or \$7,000, as shown by that statement ; it was not an extended statement, as the proceedings once were, because it was not called an official statement, not required by law.

By Senator ST. JOHN :

Q. You have been questioned as regards how long it would take to find out the difference on the deposit ledger ; how long would it take an accountant to find out those other deficiencies which you have named ?

A. It might take half an hour or an hour ; I could do it in ten minutes ; there are only two accounts to look at, the profit and loss and suspense account ; anybody could take up this ledger and find these false entries within an hour, every one of them.

By Mr. OLMSTEAD :

Q. I understood you to say you did not know any thing about these proceedings that occurred at Albany, otherwise than what occurs upon the record ?

A. That is all.

Q. Do you know any thing about a letter that was addressed by the committee or by the superintendent, Mr. Ellis, to the attorney-general, in respect to dissolving this corporation ?

A. That formed one of the papers of which I have spoken ; they were all one day.

Q. That would be on file in the attorney-general's office ?

A. Yes, sir ; they formed part of the records.

Q. There was a paper of that character ?

A. Yes, sir ; first the complaint by Mr. Ellis —

[Objected to.]

Q. State what the papers were, generally, so they can be identified ?

[Objected to ; the papers themselves must be produced ; objection overruled.]

A. Mr. Ellis' communication to the attorney-general, in conformity to the law ; the summons and complaint of the attorney-general to the officers of the Third Avenue Savings Bank ; the answer of the president of the bank, Mr. Bates ; the application to the court for an order of the court appointing a receiver — the application was made — they were all dated the 29th of September, 1875.

By Senator WELLMAN :

Q. What were the other sources of income of the bank during the year 1874, from January 1, 1874, to January 1, 1875, aside from what you have already given us ?

A. From real estate on Fifth avenue, \$413.27; from real estate Forty-sixth and Forty-seventh streets, \$2,569.59; from real estate 725 East Forty-sixth street, \$757.74; then an item of rent from the bank property, \$1,298.33; interest on guarantee fund, \$2,537.50; a guarantee of 1873, \$2,400 — that was on Tarrytown property; these items, with the item of interest received in the regular course of interest, which is, \$15,061.54; those items together form the aggregate gross receipts of that six months; against that are the following charges, outside of the dividends: A charge against real estate of, \$125.37; premium, \$560; expenses, \$1,469.74; salary account, \$4,250.02; United States internal revenue, \$728.69; deducting these items from the others, will give you the net revenue for the six months; from July, 1874, to January, 1875, August 31, 1874, from real estate at Elizabeth, \$1,346.70; December 31, real estate at Tarrytown, \$102.86; real estate on Fifth avenue, \$86.63; real estate 36 East Forty-ninth street, \$250.75; Nos. 19, 21 and 23 East Forty-sixth and Forty-seventh streets, \$7,246.26; Nos. 7 and 25 East Forty-sixth street, \$4,036.30; rent, \$1,567.93; interest on guarantee fund, \$612.50; add to that the net amount of interest received from investment, \$12,192.26.

By Senator ST. JOHN:

Q. Give the total receipts?

A. The total receipts from January 1 to July 1, 1874, are \$25,257.33 against which is charged \$7,133.82; the gross receipts from July 1, 1874, to January 1, 1875, are \$27,442.19; against which is charged \$9,198.10; that is exclusive of the two dividends which was declared in those two periods.

Q. Deducting those gross charges will give the net income of the bank for the year?

A. Yes, sir.

By Senator WELLMAN:

Q. I understand you to say that the total amount of the dividends declared were made up from fraudulent entries?

A. Yes, sir.

Q. Then what becomes of these earnings?

A. I will show you; at the time the debit against this account — at the time these fraudulent entries were made, that debit wiped out the entire amount of those receipts; the debit to the profit and loss account on the 1st of July, 1872; you have to go back to get at this.

Q. I am speaking of the condition of the books from January 1, 1874, to January 1, 1875?

A. On the 1st of January, 1875, there should have been charged to profit and loss \$37,024.86, an item of which stood to the debit of suspense account and belongs in the profit and loss account; it is a debit

balance to the suspense account; they are absolute losses growing out of various transactions; they are not suspended debts; there is not a suspended debit in it.

By Mr. OLMSTEAD:

Q. When the bank stopped, was there enough money there to run the bank; pay the expenses of the bank?

A. No, sir.

Q. They had used up the money?

A. Yes, sir.

Plaintiff rests, with the exception of putting in such evidence at Albany as the testimony of Mr. Smith, Mr. Lamb and the attorney-general, and to put in documentary evidence, consisting of the papers of September 29, mentioned, and such other evidence as might be allowed by the committee.

*William H. Macy*, being duly sworn, testifies as follows:

By Mr. CHAPMAN:

Q. You have resided in New York how long?

A. Upward of fifty years.

Q. You were the president of what bank?

A. Seamens' Bank for Savings.

Q. And have been such for how long?

A. Off and on for the last — president and vice-president — for nearly twenty years.

Q. Do you know Mr. Ellis?

A. Yes, sir.

Q. How long have you known him?

A. I have known him since he has been in the bank department.

Q. Do you recollect the occasion of Duncan, Sherman & Co.'s failure?

A. Very well.

Q. Do you recollect of Mr. Ellis calling on you and consulting with you in regard to whether it would be wise or expedient to close up the Third Avenue Savings Bank, after this failure?

A. I remember that very well.

Q. Will you tell what occurred between you and Mr. Ellis as far as you can recollect it?

A. It was a general conversation; I remember very distinctly my reply first was to close it up at once.

Q. That was your first suggestion?

A. Yes, sir; then we got to discussing the interest of the savings banks, which was very large through the State, the excitement was very great at that time in regard to their failure; we discussed as to



whether it would be to the interest of the savings banks generally throughout the State, to delay it for a short time; I think that was our conclusion, to delay it a little while, but not long.

Q. The length of the time was left indefinite?

A. Yes, sir; I think that was about the 1st of August, 1875.

Q. Your idea is that this conversation was about the 1st of August?

A. Yes, sir; it might have been a month or two before.

Q. You cannot, I suppose, give all the conversation that passed between you and him?

A. No, sir; it was a general conversation relative to the savings bank interest of the whole country.

Q. Do you recollect of his calling your attention to the fact that the Third Avenue Savings Bank was insolvent, and he came to talk with you about the expediency of closing it up then?

A. Yes, sir; that was the object of the interview.

Q. Did he speak also about there being other banks, that if this was closed up, that would undoubtedly have to go in the same way?

A. Yes, sir.

*Cross-examination* by Mr. OLMSTEAD :

Q. Did Mr. Ellis give you full information as to the affairs of the Third Avenue Bank at the time?

A. No, he did not.

Q. Did he show you the statement of March 22 and 23, 1875, of the examiners, showing a deficiency of \$219,226.81, at that time?

A. I don't recollect of our looking over any statement; I was pretty familiar with the bank and the situation of it.

Q. Was it a subject of general comment in the street among business men?

A. No, I don't think it was.

Q. Would you think a savings bank showing a deficiency of \$219,226.81 was in a condition to continue business?

[Objected to.]

A. When the first examination was made by Mr. Howell, he found the bank then in a bad state, and brought the papers immediately down to me, I think, the next day; I looked over it then, and had kept the run of it from that time forward; that is why I advised him at once to close it up; but it was not done, because we came to another conclusion.

Q. This conversation that you had with Mr. Ellis was four months after the date of that report of March 22, 1875?

A. It might have been.

Q. When did Duncan, Sherman & Co. fail?

A. The latter part of July, I think.

Q. Would you have considered it proper or right, for the trustees of a bank in this city to continue the bank and receive deposits in the bank after there had been shown to be a deficit of \$219,226.81?

[Objected to. Objection withdrawn.]

A. No.

By Senator ST. JOHN :

Q. Did you consider it a sound bank, or a good bank to do business with?

A. No, sir ; I did not.

By Mr. CHAPMAN :

Q. In the midst of a panic or where there is a panicky feeling in the street, the worse the showing would be, the greater would be the shock on the street, would it not?

A. I think that the failure of any savings bank would tend to increase it.

Q. The worse off it was, the more it would tend to affect it?

A. Of course.

Q. When Mr. Howell came to consult you at the time you spoke of, was or was not your advice to him to take the course that he did in regard to it?

A. It was very similar to the advice I gave to Mr. Ellis. In the first place I said: "Close it up," then it also happened to be at a time of very great excitement in the market and we both concluded it was better to leave it for a short time.

Q. That was the case with Mr. Ellis; at first your idea was to close it up at once, but upon reflection, you came to the conclusion it would be better not to close it up at once?

A. We thought in regard to other saving banks and other moneyed institutions of the street, it was better to delay it a little.

By Mr. OLMSTEAD:

Q. He didn't come to take your advice until about four months after?

A. I think it was about the 1st of August.

By Mr. CHAPMAN :

Q. I understood you to say it might have been a month or two earlier that he was there?

A. I predicate the time on the failure of Duncan, Sherman & Co.

Q. It was not long after that?

A. No, sir; not long after that.

By Senator ST. JOHN :

Q. Would the failure, or the winding up of a savings bank, that had this reputation among business men, of being an unsound bank, would the winding up of such a bank create any great sensation in this market, or would it injure sound banks in your opinion, to any great extent ?

A. You should modify that, it strikes me, because those of us that were in the savings bank business, inside the other banks, and knowing it would not affect us, so I said "close it up instantly."

Q. Then it would not have created any great confusion if you had closed it up ?

A. It would in the street generally.

By the CHAIRMAN :

Q. The street generally and the community generally did not understand the condition of this bank as well as you did ?

A. No, sir, they did not.

By Senator ST. JOHN :

Q. Do you think the closing up of this bank would have materially injured or impaired the standing of other good savings banks in any way ?

A. No, sir, it would not do that.

By Mr. CHAPMAN :

Q. But there was so much in that, that it did seem to you that it was best to delay it a little while ?

A. Yes, sir.

By Mr. OLMSTEAD :

Q. In none of the conversations you had with Mr. Ellis, he did not give you the particulars of the bank ?

A. No, sir, as I said before, I was so conversant with this bank since Mr. Howell had it, there was no necessity to do it.

Adjourned to May 18th, at 10 A. M., at Congress Hall, Albany.

ALBANY, *May 18, 1877.*

The committee met at 10 A. M., pursuant to adjournment.

Present—Senators COLEMAN (chairman), WELLMAN and ST. JOHN.

*Henry S. Lamb*, sworn on behalf of the prosecution.

*Examined by Mr. OLMSTEAD :*

Q. What is your business ?

A. I am now deputy superintendent of the bank department.

Q. How long have you been such deputy superintendent ?

A. Since the 1st of May, 1873.

Q. Who appointed you such deputy superintendent ?

A. The present superintendent, Mr. Ellis.

Q. Were you summoned to produce any papers here ?

A. The officer or person said I should produce certain papers, but I have none ; I believe they were all collected ; I think Mr. Ellis had them ; they were all collected together and I suppose they are here.

Q. Were any letters or documents sent by Mr. Reid or by other persons to Mr. Ellis, or to your office, relative to the affairs of the Third Avenue Savings Bank, in the city of New York, at any time ?

A. Mr. Reid sometimes did and sent reports.

Q. Have you those reports ?

A. I suppose they are among the papers.

Q. Will you please examine the papers and see if you can find any such reports or letters or special reports ?

A. I believe the papers here embrace all the reports made by the bank officers after I became deputy ; also the examination made by Mr. Reid and Mr. Aldrich in March, 1875, and one letter which accompanied that examination.

Q. Please allow me to see that report and that letter.

The witness produces the report and letter.

Mr. Olmstead offers in evidence letter from George W. Reid to D. C. Ellis as follows :

NEW YORK, *March 24th, 1875.*

*Hon. D. C. Ellis, Superintendent :*

DEAR SIR—Inclosed I hand you report in Third Avenue Savings Bank. There is \$13,000 due from trustees for interest on their bonds ; only a few of them having paid any thing the past year. Mr. Lacy, who was on the bond for \$2,500, is dead, and his executors will contest the payment of the amount. Andrew Stevens (\$10,000) has failed and James Stevens (\$10,000), it is supposed, has “softening of the brain,” and from present appearances very little will be collected on the bond.

The house on Fifth avenue, \$85,000, has not been rented for two years past.

The trustees have sold \$150,000 Kansas at par, but have not shown much financial capacity in their recent purchase of \$55,000 Tennessee bonds at 51. The January report was "made up" for the occasion all the stocks or bonds being put in at par; over \$20,000 past due coupons counted in as accrued interest; \$31,000 added to the value of the Tarrytown property, etc., etc.

All the "ability and pluck" shown three years ago during the "run" has apparently disappeared, and the old adage of "rats leaving a sinking ship" is being verified in the resignation of a number of trustees during the past year. I do not think the depositors will receive more than fifty cents on a dollar.

Yours truly,

GEORGE W. REID.

Marked Plaintiff's Exhibit No. 1, May 18, 1877. S. B. H.

Q. Have you any other letters there from Mr. Reid to the department in relation to this matter?

A. I have a letter written by Mr. Ellis to Mr. Reid, which follows George W. Reid's letter.

Q. Have you in your hands all the reports and letters which can be found in your department, relating to the Third Avenue Savings Bank?

A. I believe I have.

Q. Have you made a search for such documents in the office?

A. Myself and clerks, all of us taking a hand in the search, and I understand these are all the papers, and I believe they are; I think all the papers are here.

Mr. Olmstead offers in evidence a letter from D. C. Ellis to the Hon. Daniel Pratt, Attorney-General, dated September 29, 1875, as follows:

Hon. DANIEL PRATT, *Attorney-General*:

SIR—In pursuance of section 44, of chapter 371, laws of 1875, I hereby call your attention to the condition of the Third Avenue Savings Bank in the city of New York. From the official report made by George W. Reid and W. F. Aldrich, examiners, duly appointed by me to examine into the affairs of said savings bank, it appears that on the 23d day of March last the liabilities of said bank were \$1,443,112.39, and the assets were \$1,223,886.08, showing a deficiency of assets with which to meet its liabilities of \$219,226.31. From official knowledge, I have reason to believe that the deficiency has largely increased since that date, and that the condition of said bank

is such that it is no longer safe or expedient for it to continue its business. I would therefore recommend that you take such proceedings in the premises as may be requisite to close up its affairs.

Respectfully yours,

D. C. ELLIS,

*Superintendent.*

Marked Plaintiff's Exhibit No. 2, May 18, 1877, S. B. H.

Mr. Olmstead offers in evidence the report of the Third Avenue Savings Bank, to the superintendent of the bank department, of the condition of the bank on the 1st day of July, 1873, with schedules annexed.

Marked Plaintiff's Exhibit No. 3, May 18, 1877, S. B. H.

PLAINTIFF'S EXHIBIT No. 3.  
SCHEDULE A. — BONDS AND MORTGAGES.

No.	County where located.	In what city, village or town.	Principal unpaid.	Estimated value of mortgaged premises.	Rate of interest.
14....	New York .....	New York .....	\$114,300	\$320,000	7
3....	Westchester .....	N. New York .....	6,500	22,000	.....
1....	Westchester .....	Wt. Mt. Vernon .....	4,500	10,000	.....
1....	Westchester .....	New Rochelle .....	12,000	100,000	.....
1....	Westchester .....	Morrisania .....	3,000	10,000	.....
1....	Westchester .....	Wt. Farms .....	7,300	15,000	.....
1....	Westchester .....	Pelham Bridge .....	6,000	15,000	.....
1....	Westchester .....	Tarrytown .....	15,000	30,000	.....
5....	Queens .....	Long Island City .....	6,800	14,900	.....
3....	Kings .....	Brooklyn .....	3,700	12,000	.....
1....	Ulster .....	Ellenville .....	500	3,000	.....
4....	Union, N. J. ....	Elizabeth .....	80,000	300,000	.....
1....	Hudson, N. J. ....	Englewood .....	5,000	12,000	.....
1....	Orange, N. Y. ....	Middletown .....	3,000	10,000	.....
1....	Essex, N. J. ....	Bloomfield .....	6,500	15,000	.....
			\$274,100	\$888,900	

## PLAINTIFF'S EXHIBIT No. 3 — (Continued).

## SCHEDULE B.— STOCK INVESTMENTS.

NAME OF STOCK.	Rate of interest.	Cost.	Par value.	Estimated Market value.
Louisiana State .....	8	\$87,075 61	\$100,000 00	\$100,000 00
Georgia State .....	7	46,211 26	50,000 00	50,000 00
Alabama State .....	8	63,792 81	68,500 00	68,500 00
Kansas State .....	7	141,550 00	155,000 00	155,000 00
Virginia State .....	6	2,032 19	3,500 00	3,500 00
Jersey City, N. J., bonds .....	6	\$340,661 87	\$377,000 00	\$377,000 00
Dry Dock, East Broadway and Battery R. R. Co. bonds .....	7	39,200 00 17,500 00	43,000 00 20,000 00	43,000 00 20,000 00
		\$397,361 87	\$440,000 00	\$440,000 00



PLAINTIFF'S EXHIBIT No. 3 — (*Continued*).

## SCHEDULE F.— CASH DEPOSITED IN BANKS OR TRUST COMPANIES.

NAME OF BANK OR TRUST COMPANY.	Location.	Amount on deposit.	Rate of interest.
Fifth National Bank ....	3d ave. and 27th st..	\$14,698 18	4
National Park Bank ....	Broadway.....	2,155 58	4
Murray Hill Bank .....	3d ave. and 37th st..	8,272 05	4
Manuf. & Builders' Bank.	3d ave. and 57th st..	11,872 01	6 & 7
Total .....	.....	\$36,997 82	.....

## SCHEDULE G.

*Excess of market value over cost.*

Stocks of other States .....	\$36,338 13
Other stocks and bonds.....	6,300 00
Real estate .....	13,348 05
Total.....	\$55,986 18
Loans, deposits, investments, or assets of every description, not heretofore enumerated.....	32,455 60
Total.....	\$88,441 78

*Report of the Third Avenue Savings Bank, an incorporated institution for savings, of its condition on the first day of July, 1873, made to the Superintendent of the Banking Department, as required by chapter 136 of the laws of 1857:*

## RESOURCES.

1. Bonds and mortgages, as per schedule A, hereto annexed .....	\$274,100 00
2. Stock investments, as per schedule B, hereto annexed, cost.....	397,361 87
3. Real estate, banking buildings covering two lots, Third avenue and Twenty-sixth street, cost.....	166,651 95
4. Real estate, nine (9) houses and lots, New York city, cost and market value, interest paying.....	275,000 00
5. Real estate, at Tarrytown, Westchester county, N. Y., cost, seven per cent interest guaranteed ..	138,000 00

6. Individual bonds bearing seven per cent interest...	\$100,000 00
7. Furniture and fixtures .....	15,033 63
8. Cash on deposit in banks or trust companies, as per schedule F, hereto annexed.....	36,997 82
9. Cash on hand not deposited in bank.....	21,042 91
10. Amount of assets not included under either of the above heads, the particular items of which are set fourth in schedule G, hereto annexed.....	88,441 78
	<hr/>
	\$1,512,629 96
	<hr/> <hr/>

## LIABILITIES.

## 1. Amount due depositors:

Principal .....	\$1,465,041 97
Interest credited for the 1st of July, 1873.....	40,376 61
	<hr/>
	\$1,505,418 58

3. Excess of assets over liabilities.....	7,211 38
	<hr/>
	\$1,512,629 96
	<hr/> <hr/>

STATE OF NEW YORK, }  
County of New York. } ss.:

Thompson W. Decker, president, and David Morgan, secretary, of the Third Avenue Savings Bank, an incorporated institution for savings, located and doing business at Third avenue, corner Twenty-sixth street, in the city of New York, being duly and severally sworn, each for himself, saith that the foregoing report and the schedules accompanying the same are, in all respects, a true statement of the condition of the said institution before the transaction of any business on the morning of the first day of July, one thousand eight hundred and seventy-three, in respect to each and every of the items and particulars above specified, according to the best of his knowledge and belief.

T. W. DECKER,  
*President.*

DAVID MORGAN,  
*Secretary.*

Severally subscribed and sworn by both }  
deponents the 22d day of July, 1873, }  
before me.

HENRY C. WEEKS,

*Notary public (50), New York County.*

Also the report of the same bank to the superintendent of the bank department of the condition of the bank on the 1st day of January, 1874.

Marked Plaintiff's Exhibit No. 4, May 18, 1877, S. B. H.

PLAINTIFF'S EXHIBIT No. 4.  
SCHEDULE A. — BONDS AND MORTGAGES.

County where located.	In what city, village or town.	Principal unpaid.	Estimated value of mortgaged premises.	Rate of interest.
New York .....	New York .....	\$113,800 00	\$315,000 00	7
Westchester ..	North New York .....	6,500 00	22,000 00	7
Westchester ..	West Mount Vernon .....	4,500 00	10,000 00	7
Westchester ..	New Rochelle .....	12,000 00	100,000 00	7
Westchester ..	Morrisania .....	3,000 00	10,000 00	7
Westchester ..	West Farms .....	7,300 00	15,000 00	7
Westchester ..	Pelham Bridge .....	6,000 00	15,000 00	7
Westchester ..	Tarrytown .....	15,000 00	30,000 00	7
Kings .....	Brooklyn .....	3,200 00	12,000 00	7
Queens .....	Winfield .....	600 00	1,500 00	7
Queens .....	Long Island City .....	5,700 00	13,400 00	7
Ulster .....	Ellenville .....	500 00	3,000 00	7
Orange .....	Middletown .....	3,000 00	10,000 00	7
Union, N. J. ....	Elizabeth .....	79,800 00	300,000 00	7
Hudson N. J. ....	Englewood .....	5,000 00	12,000 00	7
Essex, N. J. ....	Bloomfield .....	6,500 00	15,000 00	7
		\$272,400 00	\$883,900 00	

## PLAINTIFFS' EXHIBIT No. 4—(Continued).

## SCHEDULE B.—STOCK INVESTMENTS.

NAME OF STOCK.	Rate of interest.	Cost.	Par value.	Estimated market value.
Louisiana State bonds.....	8	\$87,075 61	\$100,000 00	\$100,000 00
Kansas State bonds.....	7	141,550 00	155,000 00	155,000 00
Georgia State bonds.....	7	46,211 26	50,000 00	50,000 00
Alabama State bonds.....	8	63,792 81	68,500 00	68,500 00
Virginia State bonds.....	6	2,032 19	3,500 00	3,500 00
Jersey City bonds ..	6	\$340,661 87	\$377,000 00	\$377,000 00
Dry Dock, East Broadway and Battery R. R. Co .....	7	39,200 00 17,500 00	43,000 00 20,000 00	43,000 00 20,000 00
		\$397,361 87	\$440,000 00	\$440,000 00

PLAINTIFF'S EXHIBIT No. 4 — (*Continued*).

## SCHEDULE F.— CASH DEPOSITED IN BANKS OR TRUST COMPANIES.

NAME OF BANK OR TRUST COMPANY.	Location.	Amount on deposit.	Rate of interest.
Fifth National Bank....	3d ave. and 27th st..	\$13,990 03	4
National Park Bank....	Broadway .....	2,391 24	4
Murray Hill Bank.....	3d ave. and 37th st..	1,909 77	4
Manuf. & Builders' Bank.	3d ave. and 57th st..	3,595 71	6 & 7
Total.....	.....	\$21,886 75	

## SCHEDULE G.

*Excess of market value over cost.*

Stocks of other States.....	\$36,338 13
Other stocks and bonds. . . . .	6,300 00
Real estate .....	12,348 05
Total.....	\$55,986 18
Accrued interest, rents, etc.....	40,134 31
Total.....	\$96,120 49

*Report of the Third Avenue Savings Bank, an incorporated institution for savings, of its condition on the first day of January, 1874, made to the Superintendent of the Banking Department, as required by chapter 136 of the laws of 1857.*

## FINANCIAL.

## RESOURCES.

1. Bonds and mortgages, as per schedule A, hereto annexed.....	\$272,400 00
2. Stock investments, as per schedule B, hereunto annexed.....	397,361 87
3. Real estate, bank buildings covering two (2) lots, Third avenue and Twenty-sixth street, cost.....	166,651 95
Real estate, nine (9) houses and lots, New York city; cost, market value, interest paying.....	275,000 00
Real estate at Tarrytown, Westchester county, N. Y., cost and market value.....	138,000 00

4. Individual bonds of trustees, bearing seven (7) per cent interest.....	\$115,000 00
5. Furniture and fixtures.....	15,033 63
6. Cash on deposit in banks or trust companies, as per schedule F, hereto annexed.....	21,886 75
7. Cash on hand not deposited in bank.....	28,987 72
8. Amount of assets not included under either of the above heads, the particular items of which are set forth in schedule G, hereto annexed.....	96,120 49
Total .....	<u>\$1,526,442 41</u>

## LIABILITIES.

1. Amount due depositors, viz.:	
Principal .....	\$1,430,610 66
Interest credited for the 1st of	
January, 1874 .....	42,129 39
	<u>\$1,472,740 05</u>
2. Other liabilities, viz.:	
Demand loan on bonds .....	46 000 00
Internal revenue tax.....	728 69
3. Excess of assets over liabilities.....	6,973 67
Total .....	<u>\$1,526,442 41</u>

## STATISTICAL.

1. Number of open accounts on the morning of January 1st, 1874 .....	8,301
2. Number of accounts opened during the year 1873, .....	1,731
3. Number of accounts closed during the year 1873, .....	2,124
4. Number of accounts opened since organization... ..	59,703
5. Amount deposited, not including interest credited during 1873 .....	\$789,413 21
6. Amount deposited, including interest credited, for the same period.....	868,959 80
7. Amount withdrawn during the year 1873.....	835,011 04
8. Amount of interest or profits earned during the year 1873.....	114,468 78
9. Amount of interest credited to depositors for the same period.....	79,546 59
10. Amount of each semi-annual credit of interest, for the year 1873, and when credited, January 1, 1873, \$39,169.98; July 1, 1873, \$40,376.61.	
Credited at other periods during the year..	None.

11. Rate per cent of dividends or interest to depositors during the past year, six (6) per cent on sums up to \$5,000 ; five (5) per cent on sums above.....

STATE OF NEW YORK, }  
*County of New York,* } ss.:

Thompson W. Decker, president, and David Morgan, secretary of the Third Avenue Savings Bank, an incorporated institution for savings, located and doing business at Third avenue, corner of Twenty-sixth street, in the city of New York, being duly and severally sworn, each for himself saith, that the foregoing report and the schedules accompanying the same are, in all respects, a true statement of the condition of said institution before the transaction of any business on the morning of the 1st day of January, 1874, in respect to each and every of the items and particulars therein specified, according to the best of his knowledge and belief.

T. W. DECKER,  
*President.*  
 DAVID MORGAN,  
*Secretary.*

Severally subscribed and sworn by both }  
 deponents, the 26th day of January, }  
 1874, before me,

HENRY C. WEEKS,  
*Notary Public, (50) New York County.*

Also the report of the same bank to the superintendent of the bank department of the condition of the bank on the 1st day of July, 1874.

Marked Plaintiff's Exhibit No. 5, May 18, 1877, S. B. H.



PLAINTIFF'S EXHIBIT No. 5.  
SCHEDULE A.—BONDS AND MORTGAGES.

County, where located.	In what city, village or town.	Principal unpaid.	Estimated value of mortgaged premises.	Rate of interest.
New York.....	New York city.....	\$113,800 00	\$315,000 00	7
Westchester.....	West New York.....	6,500 00	22,000 00	7
Westchester.....	West Mt. Vernon.....	4,500 00	10,000 00	7
Westchester.....	New Rochelle.....	12,000 00	100,000 00	7
Westchester.....	Morrisania.....	3,000 00	10,000 00	7
Westchester.....	West Farms.....	7,300 00	15,000 00	7
Westchester.....	Pelham Bridge.....	6,000 00	15,000 00	7
Westchester.....	Tarrytown.....	15,000 00	30,000 00	7
Ulster.....	Ellenville.....	500 00	3,000 00	7
Union, N. J.....	Elizabeth.....	79,800 00	300,000 00	7
Hudson, N. J.....	Englewood.....	5,000 00	12,000 00	7
Orange, N. Y.....	Middletown.....	3,000 00	10,000 00	7
Essex, N. J.....	Bloomfield.....	6,500 00	15,000 00	7
Queens, N. Y.....	Long Island City.....	6,300 00	14,900 00	7
Kings, N. Y.....	Brooklyn.....	1,700 00	7,000 00	7
Kings, N. Y.....	East New York.....	1,500 00	5,000 00	7
		\$272,400 00	\$883,900 00	

## PLAINTIFF'S EXHIBIT No. 5 — (Continued).

## SCHEDULE B — STOCK INVESTMENTS.

NAME OF STOCK.	Rate of interest.	Cost.	Par value.	Estimated market value.
Louisiana State .....	8	\$87,075 61	\$100,000	\$100,000
Georgia State .....	7	46,211 26	50,000	50,000
Alabama State .....	8	63,792 81	68,500	68,500
Kansas State .....	7	114,153 00	125,000	125,000
Virginia State .....	6	2,032 19	3,500	3,500
Jersey City bonds .....	6	\$213,264 87	\$347,000	\$347,000
Dry Dock, East Broadway and Battery R. R. Co. bonds .....	7	39,200 00 17,500 00	43,000 20,000	43,000 20,000
		\$369,964 87	\$410,000	\$410,000

## PLAINTIFF'S EXHIBIT No. 5—(Continued).

## SCHEDULE F—CASH DEPOSITED IN BANKS OR TRUST COMPANIES.

NAME OF BANK OR TRUST COMPANY.	Location.	Amount on deposit.	At what rate of interest.
Fifth National Bank.....	New York....	\$18,434 65	4
National Park Bank .....	do	5,063 57	4
Murray Hill Bank .....	do	6,096 81	4
Manufacturers & Builders' Bank,	do	9,648 89	4
		<u>\$39,243 92</u>	

## SCHEDULE G.

*Excess of market value over cost.*

Stocks of other States.....	\$347,000 00	
	313,264 87	
	<u>                    </u>	\$33,735 14
Other stocks and bonds.....		6,300 00
Real estate.....		44,348 05
		<u>                    </u>
Total .....		\$84,383 18
Loans, deposits, investments or assets of every description, not heretofore enumerated, viz.:		
Accrued interest, rents, etc. ....		43,787 27
		<u>                    </u>
Total of schedules.....		<u>\$128,170 45</u>

PLAINTIFF'S EXHIBIT No. 5 — (*Continued*).

REAL ESTATE, JULY 1, 1874.

1. Bank buildings:		
Two houses and lots.....		\$180,000 00
2. Nine houses and lots, viz.:		
(1) 156 East Twenty-sixth street.....	\$20,000 00	
(2) Fifth avenue.....	85,000 00	
(3) 36 East Forty-ninth street.....	\$42,500 00	
	14,000 00	
	<hr/>	
(4, 5, 6, 7) 19, 21 and 23 East Forty-sixth and Forty-seventh streets:		28,500 00
3. Forty-sixth street, house.....	\$90,000 00	
	25,500 00	
	<hr/>	
Forty-seventh street, house.....	\$64,500 00	
	\$42,500 00	
	8,500 00	
	<hr/>	
	34,000 00	
	<hr/>	
(8 and 9) 7 and 25 East Forty-sixth street, two houses and lots.....	\$60,000 00	
	17,000 00	
	<hr/>	
	43,000 00	
	<hr/>	
		275,000 00
3. At Tarrytown:		
77 acres, at \$2,000.....		\$154,000 00
15 acres, at \$1,000.....		15,000 00
		<hr/>
		169,000 00
		<hr/>

## 1. Tarrytown:

Estimated cost January, 1874.....	\$138,000 00
Excess of estimated value .....	31,000 00
	<hr/> \$169,000 00

## 2. Bank buildings:

Cost to July 1, 1873 .....	\$166,651 95
Excess of market value .....	13,348 05
	<hr/>
Market value .....	\$180,000 00

*Report of the Third Avenue Savings Bank, an incorporated institution for savings, of its condition on the first day of July, 1874, made to the Superintendent of the Banking Department, as required by chapter 136 of the laws of 1857.*

#### RESOURCES.

1. Bonds and mortgages, as per schedule A, hereto annexed.....	\$272,400 00
2. Stock investments, as per schedule B, hereto annexed.....	369,964 87
3. Real estate, bank building covering two (2) lots, Third avenue and Twenty-sixth street, cost.....	166,651 95
Real estate, nine (9) houses and lots, New York city, cost and market value, estimated interest paying.....	275,000 00
Real estate, 92 acres of land, Tarrytown, Westchester county, N. Y., cost.....	138,000 00
4. Individual bonds of trustees bearing 7 per cent interest.....	115,000 00
5. Furniture and fixtures.....	15,033 63
6. Cash on deposit in banks or trust companies, as per schedule F, hereto annexed.....	39,243 92
7. Cash on hand not deposited in bank.....	20,707 25
8. Amount of assets not included under either of the above heads, the particular items of which are set forth in Schedule G, hereto annexed.....	128,170 45
	<hr/>
	\$1,540,172 07
	<hr/>

#### LIABILITIES.

1. Amount due depositors:	
Principal .....	\$1,436,819 48
Interest credited for the 1st of July, 1874.....	40,472 18
	<hr/>
	\$1,477,291 66
2. Other liabilities, viz.:	
Demand loan on bonds.....	45,000 00
Internal revenue tax.....	649 36
3. Excess of assets over liabilities.....	17,231 05
	<hr/>
	\$1,540,172 07
	<hr/>

STATE OF NEW YORK, }  
 County of New York, } ss.:

I, Daniel Bates, vice-president, and David Morgan, secretary of the Third Avenue Savings Bank, an incorporated institution for savings, located and doing business at No. 354 Third avenue, corner Twenty-sixth street, in New York, being duly and severally sworn, each for himself saith, that the foregoing report and the schedule accompanying the same are, in all respects, a true statement of the condition of the said institution before the transaction of any business on the morning of the first day of July, one thousand eight hundred and seventy-four, in respect to each and every of the items and particulars above specified, according to the best of his knowledge and belief.

DANIEL BATES, *Vice-President.*

DAVID MORGAN, *Secretary.*

Severally subscribed and sworn by both }  
 deponents, the 24th day of July, 1874, }  
 before me,

LUTHER WISE,

*Commissioner of Deeds in and for New York Co.*

Also the report of the same bank to the superintendent of the bank department of the condition of the bank on the 1st day of January, 1875.

Marked Plaintiff's Exhibit, No. 6, May 18, 1877, S. B. H.

PLAINTIFF'S EXHIBIT No. 6.  
SCHEDULE A. — BONDS AND MORTGAGES.

County where located.	In what city, village or town.	Principal unpaid.	Estimated value of mortgaged premises.
New York	New York	\$123,300 00	\$357,000 00
Westchester	Yonkers	4,500 00	10,000 00
Westchester	New Rochelle	12,000 00	100,000 00
Westchester	West Farms	7,300 00	15,000 00
Westchester	Pelham Bridge	6,000 00	15,000 00
Westchester	Tarrytown	15,000 00	30,000 00
Ulster	Ellesville	500 00	3,000 00
Union, N. J.	Elizabeth	75,550 00	322,000 00
Hudson, N. J.	Englewood	5,000 00	12,000 00
Essex, N. J.	Bloomfield	5,600 00	15,000 00
Bergen, N. J.	Jersey City	4,500 00	9,000 00
Orange, N. Y.	Middletown	3,000 00	10,000 00
Kings, N. Y.	Green Point	1,000 00	4,000 00
Kings, N. Y.	Brooklyn	700 00	3,000 00
Kings, N. Y.	East New York	500 00	5,000 00
Queens, N. Y.	Long Island City	2,800 00	6,000 00
Queens, N. Y.	Long Island City	600 00	1,500 00
Queens, N. Y.	Winfield	2,000 00	4,400 00
		\$269,850 00	\$921,900 00



## PLAINTIFF'S EXHIBIT No. 6 — (Continued).

## SCHEDULE B. — STOCK INVESTMENTS.

NAME OF STOCK.	Rate of interest.	Cost.	Par value.	Estimated market value.
Kansas State .....	7	\$114,153 00	\$125,000 00	\$125,000 00
Louisiana State .....	8	87,075 61	100,000 00	100,000 00
Georgia State .....	7	46,211 26	50,000 00	50,000 00
Alabama State .....	8	63,792 81	68,500 00	68,500 00
Virginia State ....	6	2,032 19	3,500 00	3,500 00
Jersey City bonds .....	6	\$313,264 87	\$347,000 00	\$347,000 00
Dry Dock, East Broadway and Battery R. R. Co.'s bonds .....	7	39,200 00 8,750 00	43,000 00 10,000 00	43,000 00 10,000 00
		\$361,214 87	\$400,000 00	\$400,000 00

PLAINTIFF'S EXHIBIT No. 6 — (*Continued*).

## SCHEDULE F.— CASH DEPOSITED IN BANKS OR TRUST COMPANIES.

NAME OF BANK OR TRUST COMPANY.	Location.	Amount on deposit.	Rate of interest.
Fifth National Bank..	Third avenue.....	\$7,759 10	4
National Park Bank ..	Broadway .....	3,453 74	4
Murray Hill Bank ....	Third avenue.....	4,789 49	4
Manuf. & Builders' B'k,	Third avenue.....	7 77	4
		<u>\$16,010 10</u>	

## SCHEDULE G.

*Excess of market value over cost.*

Stocks of other States .....	\$33,735 13
Other stocks and bonds.....	5,050 00
Real estate, 26th street and 3d avenue.....	8,051 35
Real estate at Tarrytown.....	31,000 00
Totals .....	<u>\$77,836 48</u>

Loans, deposits, investments or assets of every description, not heretofore enumerated, viz.:

Accrued interest, rents, etc .....	61,492 57
Total schedule.....	<u>\$139,329 05</u>

*Report of the Third Avenue Savings Bank, an incorporated institution for savings, of its condition on the first day of January, 1875, made to the Superintendent of the Banking Department, as required by chapter 136, of the Laws of 1857.*

## RESOURCES.

1. Bonds and mortgages, as per schedule A, hereto annexed .....	\$269,850 00
2. Stock investments, as per schedule B, hereto annexed .....	361,214 87
3. Real estate, bank buildings, covering two lots, Third avenue and Twenty-sixth street, cost.....	171,948 65
Real estate, nine houses and lots, New York city, cost and market value .....	288,618 51

Real estate, 92 acres of land at Tarrytown, Westchester county, New York, cost.....	\$138,000 00
4. Individual bonds of trustees, bearing seven per cent interest .....	115,000 00
5. Furniture and fixtures .....	15,033 63
6. Cash on deposit in banks or trust companies, as per schedule F, hereto annexed.....	16,010 10
7. Cash on hand not deposited in bank.....	11,914 21
8. Amount of assets not included under either of the above heads, the particular items of which are set forth in schedule G, hereto annexed.....	139,329 05
	<hr/>
	\$1,526,919 02
	<hr/>

## LIABILITIES.

1. Amount due depositors;	
Principal .....	\$1,413,931 53
Interest credited for the 1st of	
January, 1875 .....	41,026 84
	<hr/>
	\$1,454,958 37
2. Other liabilities, viz.:	
Demand loan on bonds.....	65,000 00
3. Excess of assets over liabilities .....	6,960 65
	<hr/>
	\$1,526,919 02
	<hr/>

## STATISTICAL.

1. Number of open accounts on the morning of January 1st, 1875.....	8,117
2. Number of accounts opened during the year 1874,	1,562
3. Number of accounts closed during the year 1874,	1,746
4. Number of accounts opened since organization....	61,244
5. Amount deposited, not including interest credited during 1874 .....	\$680,296 89
6. Amount deposited, including interest credited, for the same period.....	762,898 46
7. Amount withdrawn during the year 1874.....	779,577 59
8. Amount of interest or profits received or earned during the year 1874 .....	108,339 77
9. Amount of interest credited to depositors for the same period .....	82,601 57
10. Amount of each semi-annual credit of interest, for the year 1874, and when credited, January 1, '74 \$42,129.39; July 1, '74, \$40,472.18.	

Credited at other periods during the year, none.

11. Rate per cent of dividends or interest to depositor during the past year, six per cent from \$1 to \$5,000; five per cent above \$5,000.

STATE OF NEW YORK, }  
County of New York. } ss.:

John H. Lyon, president, and Wm. S. Carman, secretary, of the Third Avenue Savings Bank, an incorporated institution for savings, located and doing business at Third avenue, corner Twenty-sixth street, in city of New York, being duly and severally sworn, each for himself saith, that the foregoing report and the schedules accompanying the same are, in all respects, a true statement of the condition of said institution before the transaction of any business on the morning of the first day of January, one thousand eight hundred and seventy-five, in respect to each and every of the items and particulars therein specified, according to the best of his knowledge and belief.

JOHN H. LYON,  
*President.*

W. S. CARMAN,  
*Secretary.*

Severally subscribed and sworn by both }  
deponents, the 23d day of January, }  
1875, before me,

GEORGE HILL,  
*Commissioner of Deeds.*

Also the report of the examination of Reid and Aldrich, as filed the 25th day of March, 1875, which is an examination of the 22d and 23d of March, 1875, which has previously been put in evidence.

Q. Did you have any conversation with Mr. Ellis about March, 1875, in respect to the condition of the Third Avenue Savings Bank?

A. We had some talk about it after the report was filed.

Q. What was said between you?

A. I told him I thought it ought to be closed up at once.

Q. You mean the report of March 22d?

A. The report of the examiner of March 25th; I thought the bank ought to be closed at once.

Q. What did he say?

A. He said in view of pending legislation in respect to savings banks, it might be best to wait until the legislature adjourned and these bills were passed.

Q. Was that all that was said ?

A. That was all the conversation we had in regard to it.

*Cross-examination.*

By Mr. CHAPMAN :

Q. Do you recollect whether subsequently you had other conversations generally in regard to what was best to do in connection with this bank and the general policy of disposing of the smaller banks ?

A. I don't recollect that we had any conversation in respect to the Third Avenue Savings Bank at all, we had some general talk about policy, and my judgment was that a good many of the smaller banks of New York must of necessity finish business and be closed up, and I believe Mr. Ellis generally concurred with me in that opinion.

Q. The question was simply when was the best time ?

A. The time and method ?

[Objected to, on the ground that although the judgment of Mr. Ellis might be taken against him, his remarks to other people generally cannot be taken in his favor.]

Q. The general savings bank bill was then pending in the legislature ?

A. Yes, sir.

Q. This bill of 1875 had a new and peculiar provision in connection with the management of banks in relation to the merging of banks ?

[Objected to, on the ground that the bill must be produced.]

A. Yes, sir.

Q. The question was to delay it until after the passage of the bill ?

A. Until after its passage.

By Senator ST. JOHN :

Q. Which was the first savings bank Mr. Ellis closed up ?

A. The Third Avenue Savings Bank, I believe.

Q. That was the first one closed ?

A. Yes, sir.

By Mr. OLMSTEAD :

Q. What other banks were spoken of as being weak banks between you ?

A. In this conversation about merging or closing of the banks, I do not recollect that any particular bank was talked of.

Q. About what time was that conversation ; was it subsequent to March, 1875 ?

A. It was after the passage of that bill ; I think the bill passed about the middle or a little after the middle of May, 1875.

By Mr. CHAPMAN :

Q. The bill was pending when this report came in ?

A. Yes, sir.

Q. It had been pending during the legislature ?

A. Yes, sir.

Q. You know also that Mr. Ellis had very much to do before the committee in connection with that bill — the general savings bank bill ?

A. Yes, sir.

Q. A good deal of his time was taken up in that way and it was principally drawn up in the office ?

[Objected to.]

A. I cannot say how far it was drawn up in the office ; I don't recollect that any great portion of it was ; if I may make one remark about it, I will say that Mr. D. P. Wood who was in the senate, and Mr. Schuyler who was in the assembly, both of them had large experience in savings banks management and they rather took the laboring oar, consulting with Mr. Ellis often about the framing of the bill.

Q. You know the fact that Mr. Ellis was frequently before the committees of the assembly and the senate ?

A. Yes, sir.

Q. And the matter was under discussion a long time ?

A. Yes, sir ; there was a great deal of controversy about the bill, what should go in and what should be left out ; it was regarded as one of the most important measures of that session.

By Mr. OLMSTEAD :

Q. How long had your department considered this Third Avenue Savings Bank in an insolvent condition ?

A. I had no proof of its insolvency, until the receipt of Mr. Reid's report in March, 1875.

Q. Did any gentlemen consult you, in September — about the 28th or 29th of September, 1875 — in respect to appointing a receiver for the bank ?

A. No, sir ; I went away on a brief vacation about the 20th of September, and did not return until after the bank had failed and the subject disposed of.

Q. Did you ever see a report in your office from Mr. Hennessey and Mr. Dunn, in regard to the condition of this bank ?

A. I have seen it in the pigeon hole in our vault, but I never gave it any examination.

Q. Do you know where that is ?

A. I suppose it is in the vault now, where they are kept usually.

Q. Do you know when it was made?

A. I cannot name the time, because it was prior to my time.

Q. You have seen it?

A. Yes, sir.

Q. I wish you would bring that over; I would like to have it here?

A. I cannot tell the year; it was not later than 1872; I think it was Mr. Keyes and Mr. Hennessey; Mr. Keyes was appointed by the superintendent, and Mr. Hennessey by some other party.

Q. Hennessey and Keyes were examiners?

A. Special examiners; it was a kind of joint stock — Mr. Hennessey by the friends of the bank, and Mr. Keyes by Mr. Howell.

Q. You have seen that report of Mr. Hennessey's, have you not?

A. I have seen it in the office.

Q. And examined it?

A. No, sir; that was a matter concluded before I went into the office.

Q. I would like to have you bring that over?

[Objected to.]

Mr. OLMSTEAD offers to produce and put in evidence the report of Hennessey and Keyes, made during Mr. Howell's administration, being a joint committee, one appointed by the bank and the other by the superintendent, to examine into the affairs of this bank for the purpose of showing by the report that at that time the bank was wholly and totally insolvent, and that it so appeared upon the face of the report.

[Objected to, on the ground that it is immaterial, and that it was under a former administration; that we already have the results of that examination in evidence, as appears from Mr. Howell's report, which has been introduced, and that it was a long time prior to the time that Mr. Ellis went into office, and that he had his own examiners make an examination of the condition of this bank immediately after he went into office. Objection sustained.]

*Hale Kingsley*, sworn on behalf of the prosecution:

*Examined by Mr. OLMSTEAD:*

Q. Are you clerk of the county of Albany?

A. I am deputy clerk.

Q. You were directed to produce certain orders and papers here this morning?

A. Yes, sir.

Q. You have brought them?

A. Yes, sir; I produced the orders and papers called for.

Q. Are those papers which you produced on file in your office?

A. They are, sir; the judgment-roll and the order to remove Mr. Carman and appoint Mr. Hurd; first the papers appointing Mr. Car-

man, and then the order removing Mr. Carman and appointing Mr. Hurd.

Mr. OLMSTEAD offers in evidence the judgment-roll in the supreme court, Albany county, in the action of the People of the State of New York against the Third Avenue Savings Bank, the papers consisting of a notice signed by Daniel Pratt, attorney-general, without date; of a motion made on the 29th day of September, 1875, at special term, in Albany; then an order made by Hon. A. M. Osborne, justice, at Albany, on the same day, made on a summons and complaint on the report of Hon. D. C. Ellis, filed on the same day in the clerk's office, the summons without date; the complaint signed by Daniel Pratt, attorney-general, verified by De Witt C. Ellis, September 29, 1875; copy of a letter signed by D. C. Ellis, superintendent, and a letter to the attorney-general, dated September 29, 1875.

Also an affidavit of verification annexed to the complaint and letter of Daniel Bates, president of the bank, verified September 29, 1875, at Albany.

The above-mentioned papers being all marked, "filed September 29, 1875."

The answer in the suit of the Third Avenue Savings Bank, without date, signed M. T. & L. G. Hun, defendants' attorneys, Albany, N. Y.

The answer being without date and not verified.

The notice of motion in the same suit for judgment, signed Daniel Pratt, attorney-general, for the 4th day of October, 1875.

Order by Hon. T. R. Westbrook, justice, Charles F. Fairchild, attorney-general, on behalf of the plaintiff, and John T. Hoffman and Marcus T. Hun on behalf of the defendants, the judgment being dated the 4th day of October, 1875. The judgment-roll being marked as filed October 6, 1875.

Judgment-roll marked plaintiff's Exhibit No. 7, May 18, 1877, S. B. H.

### PLAINTIFF'S EXHIBIT No. 7.

#### SUPREME COURT — ALBANY COUNTY.

The People of the State of New York

*against*

The Third Avenue Savings Bank.

*To the Defendants above named:*

You will please take notice that on the annexed papers this court will be moved at a special term thereof to be held at the City Hall in



the city of Albany on the 29th day of September, 1875, at ten o'clock in the forenoon, that the Third Avenue Savings Bank, the defendant above named, its officers and agents be restrained and enjoined from exercising any of its corporate rights, franchises or privileges and from collecting or receiving any debts or demands and from paying out or in any manner transferring or delivering to any person any of the moneys, property or assets of the said corporation, and that a receiver of the property and effects of said corporation be appointed pursuant to the provisions of the revised statutes and laws of this State with all the power and authority conferred upon receivers in such cases, and that said plaintiff have such other or further relief in the premises as may be proper, with costs of this motion.

Yours, etc.,

DANIEL PRATT, *Attorney-General,*  
*Plaintiff's Attorney, Albany, N. Y.*

At a special term of the supreme court of the State of New York,  
 held at the City Hall, in the city of Albany, on the 29th day of  
 September, 1875.

Present—Hon. A. MELVIN OSBORN, Justice.

The People of the State of New York

*agst.*

The Third Avenue Savings Bank.

On reading and filing the summons and complaint, report of Hon. De Witt C. Ellis, and the affidavit of Daniel Bates, and a notice of this motion; after hearing Charles S. Fairchild, deputy attorney-general, on behalf of the plaintiff above named, and John T. Hoffman on behalf of the above-named defendant, and after due deliberation thereupon had, it is

Ordered, That William S. Carman, of the city of New York, be and he hereby is appointed receiver of all the corporate property, assets and effects of the defendant above named, and all property and effects held by it.

It is further ordered that such receiver, before entering upon the duties of his office, execute a bond, to be signed by himself and sufficient sureties, to be approved, after notice of application therefor to the attorney-general, by a justice of the supreme court, as to its form

and sufficiency, and manner of execution, in the penal sum of four hundred thousand dollars, said bond to be given to the people of the State of New York and to be filed in the Albany county clerk's office.

It is further ordered that said receiver have and enjoy all the powers and duties conferred upon such receivers by the Revised Statutes of the State of New York, and the laws thereof; that all moneys received by him and all the securities and obligations now held by said defendant, the Third Avenue Savings Bank, excepting the sum of ten thousand dollars, to be retained by said receiver for the payment of necessary and incidental disbursements, be deposited with the United States Trust Company, of the city of New York, to be held by said last-named corporation, subject to the further order of this court, and to the credit of the defendant in this action, said money and securities so deposited as aforesaid with said United States Trust Company not to be delivered over by it, except subject to and in pursuance of the order of this court.

It is further ordered that said corporation, the Third Avenue Savings Bank, its officers and agents, be restrained and enjoined from exercising any of its corporate rights, privileges or franchises and from collecting or receiving any debts or demands, and from paying out or in any manner transferring or delivering to any person other than the receiver above named any of the moneys, property or effects of the said defendant above named.

A. M. OSBORN,  
*Justice Supreme Court.*

WM. E. HASWELL, *Clerk.*

[Indorsed.] Recorded in Albany county clerk's office, September 29, 1875, 4.15 P. M., in book of orders appointing receivers of judgment debtors, at page 422, etc.

WM. E. HASWELL, *Clerk.*

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SUPREME COURT — COUNTY OF ALBANY.

The People of the State of New York	}
<i>agst.</i>	
The Third Avenue Savings Bank.	}

*To the above-named Defendant :*

You are hereby required to answer the complaint of the plaintiff herein, a copy of which is hereto annexed, and to serve a copy of your answer on me at my office in the State Hall, in the city of Albany, N. Y., within twenty days after the service of this summons, exclusive of the day of service, or the plaintiff will apply to the court for the relief demanded in the complaint.

DANIEL PRATT, *Attorney-General,*  
*Plaintiff's Attorney.*

## SUPREME COURT — ALBANY COUNTY.

The People of the State of New York <i>agst.</i> The Third Avenue Savings Bank.	}
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The above-named plaintiffs, by Daniel Pratt, their attorney-general, complain of the defendant, and allege :

That the defendant is a corporation duly created and organized under and in pursuance of an act of the legislature of the State of New York, entitled "An act to incorporate the Bloomingdale Savings Bank," passed April 17, 1854, and an act entitled "An act to amend an act entitled 'An act to incorporate the Bloomingdale Savings Bank,'" passed April seventeenth, one thousand eight hundred and fifty-four, passed February 24, 1859, and "An act to amend 'An act entitled an act to incorporate the Bloomingdale Savings Bank,'" passed April 17, 1854; and "An act amending the same," passed February 24, 1859, passed April 1, 1865; and "An act in relation to the Third Avenue Savings Bank," passed April 25, 1867, and the several acts amendatory of those above mentioned.

That said corporation has for several years last past conducted and carried on in the city of New York, in the State aforesaid, the business of a savings bank.

That said corporation is now and has been for more than one year last passed insolvent, and unable to pay its debts, and the liabilities of the said corporation, arising from the deposits of money made therein, have been and are very much greater than, and far in excess of, the value of all the assets of said corporation.

That in pursuance of chapter 371 of the Laws of the State of New York, passed in the year 1875, and chapter 693 of the Laws of 1871, the superintendent of the banking department of the State of New York has caused said corporation to be visited and examined by two competent persons appointed by him for that purpose, and said superintendent has sent a communication to the attorney-general of the State of New York, a copy of which is hereto annexed and made part of this complaint.

Wherefore, these plaintiffs demand judgment, first, that said corporation, the defendant above-named, be dissolved; second, that said corporation, its officers and agents be restrained and enjoined from exercising any of its corporate rights, privileges or franchises, and from collecting or receiving any debts or demands, and from paying out or in any manner transferring or delivering to any person any of the moneys, property or effects of the said corporation; that a receiver

of the property and effects of the said corporation may be appointed pursuant to the provisions of the Revised Statutes and laws of this State, with all the powers and authority conferred upon receivers in such cases; that the plaintiffs have their costs of this action.

DANIEL PRATT, *Attorney-General*,  
*Plaintiff's Counsel.*

STATE OF NEW YORK, }  
*Albany City and County.* } ss. :

De Witt C. Ellis, of said city, being duly sworn, says: That he is the superintendent of the banking department of the State of New York, and is familiar with the facts set forth in the foregoing complaint; that the aforesaid complaint is true of his own knowledge, except as to those matters therein stated on information and belief, and as to those matters he believes it to be true.

D. C. ELLIS.

Sworn to before me, this 29th day }  
 of September, 1875. }

R. M. BARBER,  
*Commissioner of Deeds, Albany, N. Y.*

STATE OF NEW YORK, }  
 BANK DEPARTMENT, }  
 ALBANY, *Sept. 29, 1875.* }

Hon. DANIEL PRATT, *Attorney-General*:

SIR—In pursuance of section 44 of chapter 371, Laws of 1875, I hereby call your attention to the condition of the Third Avenue Savings Bank, in the city of New York. From the official report made by Geo. W. Reid and W. F. Aldrich, examiners duly appointed by me to examine into the affairs of said savings bank, it appears that on the 23d day of March last the liabilities of said bank were \$1,443,112.39 and the assets were \$1,223,886.08, showing a deficiency of assets, with which to meet its liabilities, of \$219,229.81. From official knowledge I have reason to believe that the deficiency has largely increased since that date, and that the condition of said bank is such that it is no longer safe or expedient for it to continue its business. I would therefore recommend that you take such legal proceedings in the premises as may be required to close up its affairs.

Respectfully yours,

D. C. ELLIS,  
*Superintendent.*

STATE OF NEW YORK, }  
*City and County of Albany,* } ss.:

Daniel Bates, of the city of New York, being duly sworn, says that he is the president of the Third Avenue Savings Bank, defendant in the above-entitled action, that the allegation of the complaint and the certificate or communication of D. C. Ellis, superintendent, etc., hereto annexed, are true.

DANIEL BATES.

Sworn to before me, }  
 this 29th day of September, 1875. }

R. M. BARBER,

*Commissioner of Deeds,*

*Albany, N. Y.*

(Endorsed.) Filed September 29, 1875, 4.15 P. M.

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SUPREME COURT. — ALBANY COUNTY.

The People of the State of New York <i>agst.</i> The Third Avenue Savings Bank.	}
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And now come the Third Avenue Savings Bank, defendant above named, by M. T. & L. G. Hun, its attorneys, and answers the complaint of the plaintiff and alleges: That the defendant is and was, during the times mentioned in the complaint, a corporation duly created and organized under and in pursuance of the Laws of the State of New York, and carried on business in the city of New York, as in the complaint alleged; that the several allegations in the complaint contained, as to the financial condition of the defendant and as to the superintendent of the banking department of the State of New York, are true.

M. T. & L. G. HUN,

*Defendant's Attorneys,*

*Albany, N. Y.*

## SUPREME COURT.—ALBANY COUNTY.

The People of the State of New York
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<i>agst.</i>
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The Third Avenue Savings Bank.
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*To Messrs. M. T. & L. G. Hun, Defendant's Attorneys:*

GENTLEMEN — Take notice that on all the pleadings and papers record and proceedings had in this action, this court will be moved at a special term thereof, to be held at the City Hall, in the city of Albany, on the 4th day of October, 1875, at the opening of the court on that day or as soon thereafter as counsel can be heard that judgment of dissolution be entered against the defendant above named, and that a receiver of its assets and effects be appointed and that the plaintiff have such other or further order or relief in the premises as may be just.

Yours, etc.,

DANIEL PRATT, *Attorney-General,*  
*Plaintiffs' Attorney.*

At a Circuit Court and Special Term of the Supreme Court of the State of New York, held at the city hall in the city of Albany on the 4th day of October, 1875.

Present — Hon. T. R. WESTBROOK, Justice.

The People of the State of New York
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<i>agst.</i>
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The Third Avenue Savings Bank.
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This cause coming on to be heard on the complaint, report of Hon. De Witt C. Ellis, the affidavit of Daniel Bates, the answer of the defendant and a notice of motion for a final decree herein, after hearing Charles S. Fairchild, deputy attorney-general, on behalf of the plaintiffs above named, and Hon. John T. Hoffman and Marcus T. Hun, Esq., on behalf of the above-named defendant, it is ordered, adjudged and decreed,

*First,* That the defendant above named, the Third Avenue Savings Bank, be, and the same is hereby dissolved, and that from henceforth it determine and cease to exist as a body corporate.

*Second,* That William S. Carman, of the city of New York, be, and he is hereby appointed receiver of all the stock, property, things in action and effects, real and personal, of said corporation, the Third

Avenue Savings Bank, and of all property held by it with the usual powers and duties in such cases enjoyed and exercised by receivers, according to the practice of this court.

*Third.* That before entering upon the duties of his office, such receiver make, execute and deliver himself, and cause to be executed and delivered by at least two sufficient sureties, to be filed with the clerk of Albany county, a bond to the people of the State of New York in the penal sum of seventy-five thousand dollars, conditioned for the faithful execution by said receiver of the trust in him placed and the due performance of all duties appertaining thereto; said bond to be approved as to its sufficiency, form and manner of execution, by a justice of the supreme court after due notice of the time and place of the making of the application for such approval has been first given to the attorney-general of the State of New York, upon the filing of which bond thus approved the receiver is authorized and directed to take possession of and sequester the stock, property, things in action and effects real and personal of said corporation, and to take and hold all property held by or in the possession of said corporation.

*Fourth.* That all money, personal property, choses in action and effects of or held by said corporation, and all securities and obligations belonging to said corporation coming into the hands of said receiver, except articles of furniture and corporate books, and except the sum of ten thousand dollars to be retained by said receiver for the payment of necessary and incidental disbursements, be deposited with the United States Trust Company, of the city of New York, to be held by said last-named corporation, subject to the further order of this court and to the credit of the receiver in this action; said money and securities so deposited as aforesaid with said United States Trust Company not to be delivered over by it except subject to and in pursuance of the order of this court.

*Fifth.* That the said receiver do also forthwith proceed and recover by process of law, or otherwise, pursuant to statute in such case provided, any sum which may be due to said corporations if the person so indebted be not wholly insolvent.

*Sixth.* It is further ordered that the said receiver, in the discharge of the duties of his trust, be vested with all the rights and powers and be subject to all the duties and liabilities declared by statute in such cases, and proceed in all respects pursuant to article three, title four, chapter eight, part third of the Revised Statutes (except as herein otherwise provided).

*Seventh.* It is further ordered that before any distribution of any portion of said funds or assets shall be made, and within six months from the date of this order, the said receiver report to this court, after

giving notice of his intention so to do to the attorney-general, his proceedings under this order with an exhibit of the accounts and demands for and against said corporation and all its open and subsisting contracts, and a statement of the amount of the money and assets in the hands of said receiver, together with a statement of his expenses and commissions, to the end that such order may be made in regard thereto as the nature of the case may require. And it is further ordered that until the coming in of said report, and the hearing thereon, the question as to the distribution of said assets and moneys, and of the rights and interests of the respective parties claiming the same or any portion thereof, and other questions not herein disposed of, be reserved for further directions.

*Eighth.* It is further ordered that said receiver pay out of and from the moneys of said corporation coming into his hands to the attorneys for the defendant herein, their taxable costs and five hundred dollars as an extra allowance herein.

*Ninth.* It is further ordered that such further application may be made to the court on the footing of this decree as the receiver may be advised is proper and necessary for his instruction in the management and conduct of his trust. It is further ordered that except as herein ordered and directed the said receiver shall not dispose of or in any manner interfere with any of the assets of said bank directed to be deposited with the United States Trust Company. He shall immediately (upon the approval of the bond herein required to be given), in the presence of the superintendent of the banking department of the State of New York, take the assets so directed to be deposited from said bank and deposit them with the said United States Trust Company, and take from said Trust Company a receipt stating that such assets are received under and in pursuance of the provisions of this decree, and under the restriction as to their transfer or disposition in this decree mentioned.

*Tenth.* It is further ordered that no application shall be made to any court, nor shall any action of the court be asked or suffered by the receiver relative to or in any way connected with the duties of said receiver, or the funds or assets of the defendant above mentioned, or their transfer, sale or delivery, unless a five day's notice of such application be first given to the attorney-general of the State of New York.

WM. E. HASWELL, *Clerk.*

[Endorsed]: Recorded in Albany county clerk's office, October 6, 1875, 3 P. M., in book of orders appointing receivers of judgment debtors, page 456.

WM. E. HASWELL, *Clerk.*

And filed October 6, 1875, 3 P. M.



Q. Please look at the papers shown you and just referred to, and state if you know in whose handwriting they severally are?

A. The notice signed by the attorney-general I do not know in whose handwriting that is.

Q. Please state which of the papers are in the same handwriting?

A. The next is the order made by Judge Osborne, on the 29th of September, appointing Mr. Carman receiver; that is in the same handwriting as the first; the same as to the summons and complaint, with the exception of the writing on the margin of the complaint, which is in Mr. Hun's handwriting; the other handwriting, while I do not know who wrote it, is the same handwriting as some copyist in Mr. Hun's office—the same handwriting as other papers that come from his office.

Q. You believe it to be copied by a clerk in his office?

A. Yes, sir; no doubt of that; then the copy of the letter from Mr. Ellis to the attorney-general, that I believe to be the handwriting of Mr. M. T. Hun.

Q. The defendant's attorney?

A. Yes, sir; then follows the answer which is in Mr. Hun's handwriting and in the same handwriting as the previous letter from Mr. Ellis, and also the affidavit of Mr. Bates; that is in the same handwriting as the answer which is in the handwriting of Mr. Hun; then follows the notice or motion for judgment; that is also in the handwriting of Mr. Hun; then follows the order made by Judge Westbrook, dissolving the corporation, and appointing Mr. Carman receiver; that is in the handwriting of the copyist in Mr. Hun's office, to the best of my belief.

Q. Then, so far as you know, all the papers are in the handwriting of Mr. Hun, the defendant's attorney, or in the handwriting of the copyist in his office?

A. Yes, sir; except the signatures; there are some interlineations here in the complaint; there is one interlineation in the order made by Judge Osborne, in the handwriting of Mr. Hun himself, and some interlineations in the complaint made by Mr. Hun himself.

Q. Do you know who filed those papers in your office?

A. Mr. Hun did.

Q. Did you see the attorney-general in relation to that at any time?

A. No, sir.

Mr. Olmstead offers in evidence the order made in the same suit at special term of the supreme court, November 30, 1875, by T. R. Westbrook, justice, removing Mr. Carman as receiver, and appointing Mr. Samuel H. Hurd.

[Objected to, on the ground that it has nothing to do with Mr. Ellis, and also that those other papers have not. Objection overruled.]

Q. When was the order filed ?

A. Filed in the clerk's office on the 6th of December, 1875.

Order marked Plaintiff's Exhibit No. 8, May 18th, 1877. S. B. H.

#### PLAINTIFF'S EXHIBIT No. 8.

At a special term of the supreme court of the State of New York, held at the Supreme Court Chambers, in the City Hall, at the city of Kingston and county of Ulster, on the 13th day of November, 1875.

Present — Hon. T. R. WESTBROOK, Justice.

The People of the State of New York

*agst.*

The Third Avenue Savings Bank.

On reading and filing the order to show cause in this action, dated the thirtieth day of October, 1875, made by Hon. T. R. Westbrook, justice, etc., returnable on the sixth day of November, 1875, with the petition, affidavits and papers on which the same was granted, with proof of service of the same as required by said order, the return thereof having been changed to this day by order of the justice who made the same on the application of William Peet, attorney for William S. Carman, receiver, etc., and on motion of Edward Fitch of counsel for the petitioner named in said petition, after hearing Mr. Edward Fitch, of counsel for said petitioner, and Algernon S. Sullivan and Mr. James S. Stearns, each separately appearing for other creditors of the defendant concurring in the petition, and after hearing Messrs. Peet and Hun, for Mr. Carman, the receiver and the defendant, and Mr. Charles H. Fairchild, deputy attorney-general for the people, it is ordered, adjudged and decreed as follows :

*First.* That the appointment of William S. Carman, of the city of New York, as receiver under and by decree of this court, made in this action at a special term thereof, held at the city hall, in the city of Albany, on the fourth day of October, 1875, be, and the same is, hereby vacated, annulled and revoked, and the said William S. Carman is hereby perpetually enjoined and commanded to cease and desist from performing or exercising all and every the powers and duties given to or conferred upon him by the said decree.

*Second.* That Samuel H. Hurd, of the city of New York, be and he hereby is appointed receiver in the place and stead of said William S.

Carman, of all the stock, property, things in action and effects real and personal of the corporation. The Third Avenue Savings Bank, defendant in this action, and of all property held by it with the usual power and duties in such cases enjoyed and exercised by receivers according to the practice of this court, subject nevertheless to all the terms, conditions and provisions expressed and contained in the said decree.

*Third.* That the said William S. Carman account for and deliver and pay over to the said Samuel H. Hurd, hereby appointed receiver, all the money, stocks, property, things in action and effects, both real and personal, which have come into his possession and control as receiver, as aforesaid, and that he render a correct and true account of all things done and suffered by him as such receiver.

*Fourth.* That Delano C. Calvin be and he hereby is appointed referee to take and state the account of said William S. Carman, as receiver, as aforesaid, and report the same to the court, with his opinion thereon.

*Fifth.* That the final decree in this action made as aforesaid be and the same is hereby amended so as to conform to this order.

*Sixth.* It is further ordered, that the said Samuel H. Hurd, who is hereby appointed receiver as herein before stated, shall execute a bond in the penalty of one hundred and fifty thousand dollars, conditioned for the faithful performance of the trust, committed to him as such receiver as aforesaid, the form thereof and sureties thereto shall be approved by one of the justices of this court upon the approval whereof and not before the said Samuel H. Hurd shall enter upon the discharge of his duties as such receiver; that upon the entry of this order and the filing of the bond approved as aforesaid, and the presentation to the said William S. Carman of a copy of this order duly certified by the clerk of the county of Albany, and of a certificate by the clerk aforesaid, that the bond hereby required has been duly filed, the said William S. Carman, who is hereby removed from his position as receiver, shall immediately deliver over to the said Samuel H. Hurd, all property of any kind, name and nature which he has in his possession or under his control, by virtue of his original appointment as such receiver, and also all books, papers, documents, vouchers and memoranda kept, made or taken by him, while acting as such receiver.

And it is further ordered, that the judgment entered in this action remain in full force, except so far as it may be modified by this order, the various parties who have appeared upon this motion will be heard hereafter upon the allowance, if any, to be made to counsel.

Clerk of Albany county will enter the foregoing order.

(Copy.)

T. R. WESTBROOK,

*Justice Supreme Court.*

(Endorsed.)

Recorded in Albany county clerk's office December 6, 1875. 2 M.  
in book of orders appointing receivers of judgment debtors at page  
444, etc.

WM. E. HASWELL,  
*Clerk.*

Filed December 6, 1875. 2 P. M.

*Charles S. Fairchild*, sworn on behalf of the prosecution.

*Examined by Mr. OLMSTEAD:* \*

Q. You are the attorney-general of the State ?

A. Yes, sir.

Q. Were you deputy attorney-general while Mr. Daniel Pratt was  
the attorney-general ?

A. Yes, sir ; I was, except the first two weeks.

Q. You was during September, 1875 ?

A. Yes, sir.

Q. Did you, personally, have any thing to do with preparing the  
papers contained in the judgment-roll in the suit of the People against  
the Third Avenue Savings Bank ?

A. I signed these summons and complaint, and I went over before  
Judge Osborne when this order was granted appointing a receiver.

Q. The last order ?

A. No ; the first order, appointing Mr. Carman receiver.

Q. The order appointing, on the summons and complaint, on the  
papers ?

A. Yes, sir.

Q. Who drew those papers ?

A. I think they are all drawn by Mr. Hun.

Q. The attorney for the defendant ?

A. Yes, sir.

Q. Did you see Mr. Ellis at that time ?

A. I think that I saw him that morning ; I cannot remember defi-  
nitely in regard to it.

Q. Was he here in the city at the time ?

A. I think he was.

Q. He swore to some of the papers, did he not ?

A. Yes, sir ; but I didn't see him swear to them ; I see that he is  
here as swearing to them.

Q. Do you know whether he knew that Mr. Carman was proposed  
as receiver ?

A. Yes, sir.

Q. He understood that ?

A. Yes, sir ; so I understood ; I cannot remember definitely in

regard to this, there have been so many of these things ; I think I came to the office in the morning, and I think Judge Pratt himself was in town, but I forget how that was ; I know that those papers were prepared, and that this company had consented to having a receiver appointed, and proceedings had been taken to that effect.

Q. All parties assenting to it ?

A. Yes, sir.

Q. You understood these gentlemen came up from New York for the express purpose of appointing him ?

A. Yes, sir.

Q. And that Mr. Carman was appointed receiver ?

A. Yes, sir.

Q. And to the best of your recollection, Mr. Ellis was aware of it ?

A. Yes, sir ; I think Mr. Ellis made no objection to the appointment of Mr. Carman.

*Cross-examination.*

By Mr. CHAPMAN :

Q. Mr. Hoffman had been governor of the State two terms ?

A. Yes, sir.

Q. Mr. Hun had been deputy attorney-general prior to your time ?

A. Yes, sir ; he was my predecessor ; he was deputy under Judge Pratt the first few weeks.

Q. Do you close a savings bank except upon the recommendation of the superintendent of the bank department ?

A. No, sir ; never to my knowledge has it been done.

Q. His letter of recommendation is the foundation of your proceedings, is it not ?

A. It is.

Q. I show you a letter signed by D. C. Ellis, dated September 29, which is on file in your office ; is that the letter on which you moved to close the bank ?

[Objected to, on the ground that the papers themselves show on what papers the motion was made. Objection withdrawn.]

A. Yes, sir ; that is the original letter.

Q. I ask you now, whether the letter which is attached to the complaint in these proceedings, to which your attention has been called, is a copy of that letter ?

A. I cannot tell without reading it all over ; [after reading copy of letter], yes, sir ; it is the same.

Q. It is a copy of this original letter which was left on file in your department ?

A. Yes, sir.

Q. And it was on this letter ~~that~~ you proceeded to move to put this bank into the hands of a receiver ?

[Objected to, on the ground that the papers will show.]

Q. It would not have been done at all, except for the letter of Mr. Ellis ; you commenced that action upon that recommendation of Mr. Ellis ?

[Objected to.]

A. That is the case, yes, sir.

Q. The attorney-general commenced this action on the recommendation of Mr. Ellis, and placed this bank in the hands of a receiver ?

A. Yes, sir.

Q. You, as attorney-general, and your predecessor have placed quite a number of savings banks in the hands of receivers on the recommendation of Mr. Ellis, have you not ?

[Taken subject to objection.]

A. Yes, sir.

Q. Has not every savings bank which has gone into the hands of a receiver, been placed in the hands of a receiver by your department, on the recommendation of Mr. Ellis, with one single exception ?

[Objected to on the ground that the papers themselves show what action was preliminary to the appointment of a receiver. Objection overruled.]

A. There was only one, that I remember, that has been placed in the hands of a receiver, that was not upon the recommendation of the superintendent of the bank department; that was a savings bank in New York, the name of which I have forgotten; Mr. Uhl was the receiver appointed for that bank.

Q. Do you know that, in that case, Mr. Ellis had made an examination of the bank, and they acted as a result of the examination before he got to you ?

A. I don't know any thing about that.

Q. And the mere technicality of drawing up the papers amounted to nothing unless they were approved by Mr. Pratt or the attorney-general ?

[Objected to.]

A. I know I looked over these papers to see if they were correct; Mr. Hun is very familiar with those proceedings; drawing of these papers, and more competent than anybody else that I knew of to draw them, and this was an agreed upon matter, and it made no difference; who drew the papers.

Q. The attorney-general had moved as the moving party ?

A. Yes, sir.

Q. And you went over with the papers to the court ?

A. Yes, sir.

Q. And was there at the time the order was granted ?

A. Yes, sir.

Q. Was not the motion also made upon the consent of the representatives of the bank ?

A. The only thing we had any contest about was the amount of the bond ; I insisted on a large bond.

Q. You moved upon the action of Mr. Ellis and the trustees ?

A. I moved upon the papers ; they made no opposition whatever.

Q. It was by an understanding between the trustees and Mr. Ellis, and of all the parties ?

A. That I don't know ; there was this letter, and Mr. Hun was there, and said it would be assented to.

Q. You understood that the trustees came up for the express purpose of having this done ?

A. I did not see the trustees, myself ; I only saw Mr. Hun.

*De Witt C. Ellis*, sworn on his own behalf :

By Mr. CHAPMAN :

Q. When were you appointed superintendent of the bank department ?

A. February 19, 1873 ; I think that is the date of the commission.

Q. Since that appointment has any savings bank been placed in the hands of a receiver except as the result of your action ?

A. I only now think of one bank that was placed in the hands of a receiver that was not the direct result of my action, and that was partially so.

Q. What do you mean by partially so ?

A. In the case of the German Up Town, there was trouble ; it was about the time when there was trouble to some extent in all those banks ; a gradual run and some excitement ; the old president of the bank resigned, and a new president took his place, and on examination he found some irregularities and frauds which took place during the prior presidency a short time previous ; I think the secretary had embezzled some moneys ; I sent Mr. Reid up there to look into the affairs ; it occurred while I was in New York that he went up there and, in connection with the president, looked over the books, and traced out far enough to find that there had been some frauds of that kind ; the new president changed his mind all at once ; he had got into a bank that was not in the condition he supposed it was, and he held a meeting, and they thought best to close it up.

Q. But after a partial examination by your examiner ?

A. Yes, sir, after my examiner had been there and looked the matter over with him.

Q. Then, even in that case, it was partially a result of your efforts?

A. Yes, sir, it was partially; it took place all within two or three days when we were there.

Q. When was this Third Avenue Savings Bank incorporated?

A. I think in 1852.

Q. 1852 or 1854?

A. 1854, chapter 390, as the Bloomingdale Savings Bank.

Q. Did it have that available fund clause in its charter?

A. Yes, sir.

Q. And subsequently changed to the Third Avenue Savings Bank?

A. Yes, sir, by an act of the legislature.

Q. Mr. Reid had been an examiner a portion of the time under your predecessor, Mr. Howell, had he not?

A. Yes, sir, he was an examiner when I took the official position; he was one of the examiners.

Q. And you retained him in his place?

A. I did.

Q. What do you say as to his competency as an examiner, from all you have seen, and heard, and know?

A. All the testimony I have had on the subject from bank officers has been very flattering, and that he was a very faithful, conscientious and painstaking examiner.

Q. Have you had any thing to awaken any suspicions as to his being incompetent or otherwise, or any hints of any thing of the kind, until the question of these investigations came up?

A. Never, sir.

Q. You had every reason to believe in the correctness of his reports?

A. I had, most assuredly.

Q. And had every confidence in him as an examiner?

A. Yes, sir.

Q. Will you look at that letter, dated March 26th, 1873, and tell if that is a copy of a letter which you gave to him on sending him out to make examinations for you?

A. This is a copy of a letter in the letter-book of the bank department, which I sent to him at the time he commenced his work under me.

Mr. Chapman reads in evidence the following letter :

NEW YORK, *March 26th*, 1873.

GEO. W. REID, Esq. :

I send you herewith commissions to examine the National Savings Institution and the Mechanics' Savings Bank of Brooklyn. I have not yet perfected my arrangement for a full force to examine the larger banks, but probably shall by the time you have finished some of the



smaller institutions which do not require more than one to make an examination. I will write you at greater length shortly, or will see you in person. You will please bear in mind the object of this examination, namely, to show the true character and condition of each bank, either large or small, old or new, and make your examination rigidly and so searching as may be necessary to find out and present the material facts for the protection of the community doing business with them, without partiality or bias. Please acknowledge receipt.

Yours, truly,

D. C. ELLIS, *Supt.* .

Q. When he made an examination and made a report to you, I will ask you whether in any instance you had any reason at the time of the receipt of the report, or since, up to the time of these investigations, to have any doubt as to the correctness of his report?

A. I never had, I always accepted his reports as truthful and correct.

Q. If you did not take his reports as being true, what could you do?

A. I could send and have another examination made by somebody else.

Q. Suppose you could not accept his report?

A. Then I should have to send somebody else.

Q. And so there would be no end to it?

A. Finally I should have to accept somebody's report.

By Senator ST. JOHN:

Q. You could go yourself?

A. Not as a rule, I could not.

Q. You have the authority to go?

A. Yes, sir; and I have in some cases; I have the power to do it; practically I could not make the examination.

By Mr. CHAPMAN:

Q. In making examinations is it practically possible to go back and examine all those banks to the time they were originally created?

A. It is not, under the system we have been acting, since the passage of the law of 1871.

Q. It requires an examination of all the banks?

A. Yes, sir; it is practically impossible.

Q. Very shortly after you went into office, I will ask you if you sent a commission to Mr. Reid, Mr. Vrooman and Mr. Aldrich, to examine into the affairs of the Third Avenue Savings Banks, of New York?

A. I did.

Q. Did they report to you the result of that examination?

A. They did.

Q. Which has been introduced in evidence?

A. Yes, sir.

Q. The examination of April, 1873?

A. Yes, sir.

Q. It has been claimed that the character of the assets, as they were returned to you by these examiners upon that examination, were such that you should have closed the bank; what do you say in regard to that?

A. What is the date of that report?

Q. April, 1873?

A. At that time, I had as my deputy the deputy that Mr. Howell had appointed, Mr. Shaw, and of course I consulted with him, being a new man in the position; we talked the matters over together and this question of the Third Avenue Savings Bank for the first time, then came to my knowledge and it was stated to me, and as the records show, that owing to a big run on the bank at one time Mr. Howell had, in conjunction I think with the trustees of the bank, caused an examination to be made, which Mr. Keyes, one of the former deputy superintendents of the bank department, conducted on one side and Mr. Hennessey, I think, on the other, it was claimed to have been an exhaustive examination, and, on their report, Mr. Howell acted, I think it was on that report, that he took those bonds of the trustees, and he had determined the status of the bank.

[Objected to.]

The WITNESS—And also his statement that the supreme court had adjudicated all the disputed claims of the savings banks up to that time, and in regard to the character of the assets and the management of the bank and the evidence of the trustees, had refused to appoint a receiver, and under that condition of things I commenced to act.

Q. It has been suggested that it was your duty as bank superintendent to put a bank in the hands of a receiver, and not the court's duty; I will ask you, how you could put a bank in the hands of a receiver without the court?

A. I could not.

Q. After, as you understood it, the court had refused to put the bank in the hands of a receiver on these very assets, how you could expect the court to put the bank in the hands of a receiver when you presented the same assets again?

A. I assumed that I could not; it was a positive fact it had been judicially determined.

Q. You acted upon that theory ?

A. I acted upon those facts, as it appears in Mr. Howell's official report to the legislature of that year.

Q. What year was that ?

A. For the year 1872, made the 1st of January, 1873, six or seven weeks before I went into office.

Q. I will ask you generally now, whether the character of the assets did not remain almost substantially the same assets, so far as they are given here, remain down to the time of your examination and reported to you by Mr. Reid in 1875 ?

A. Substantially the same.

Q. Now I come to the real estate items ; in the governor's charge, it is said that the value [of the banking-house had been increased \$100,000 ; is that true during your time ?

A. I think not ; there is no evidence of it.

Q. Look at this report of your examiners in April, 1873, and tell me what the value of the bank building is put in at there ?

A. \$180,000 ; that is the estimated market value.

Q. Will you refer to the report made to you by the bank which has been introduced in evidence for July of 1873, and see what it is returned at ?

A. Returned at cost, \$166,651.95.

Q. That is the next report made after your examination in April ?

A. Yes, sir ; that is the first bank report made after I went into office.

Q. There was no increase then ?

A. No, sir.

Q. That was returned at the cost ?

A. Yes, sir.

Q. I now ask you how it was returned in the report of the bank to you of January 1st, 1874 ?

A. At the same figures.

Q. As cost ?

A. Yes, sir.

Q. The report made by the bank was in July, 1874 ; refer to that report and see whether the same figures are not returned as the cost of the banking-house in that case ?

A. Precisely the same.

Q. So that during your time, down to the time of the report of the bank for the 1st of January, 1875, there had been no increase at all ?

A. None whatever.

Q. On the report of January 1, 1875, how much is the cost returned at ?

A. \$171,948.65.

Q. There appears to be a slight increase ?

A. Yes, sir.

Q. Is there any thing suspicious in that the mere fact of its being an increase ?

A. At cost ?

Q. Yes ?

A. None at all ; it consisted of three lots and the building.

Q. There might be improvements to the buildings or expenses in connection with the buildings ?

A. Yes, sir, it might be ; there could be changes made that would vary the cost of it considerably.

Q. When your examiner comes to make the examination in March, 1875, what does he return the bank building at, the market value ?

A. \$180,000.

Q. Had there then been any increase in the value of the bank building during the time that you was superintendent ?

A. None whatever, except that reported increased cost in 1875.

Q. When did this report of January 1, 1875, come to your attention ; it has been assumed that you received it on the 1st of January ?

A. We received it the day it was filed.

Q. That is, it was received in the department ?

A. Yes sir.

Q. That is January 25, 1875 ?

A. Yes, sir.

Q. Was this the only report that was filed in the department at that time ?

A. No, sir ; we probably had within a few days of that time 175 or 200 reports.

Q. When do the reports for the 1st of January of a year come in to you ?

A. They are required to make them by the 1st of February ; practically they never do, all of them, but they begin to come in generally from the 20th, and the bulk of them come in from the 20th to the 1st of February.

Q. You have the whole of these reports dumped down upon you almost at once ?

A. Pretty much the greater bulk of them ; once in a while a man will get his in promptly.

Q. Whether in the latter part of January and the fore part of February, 1875, you didn't have the annual reports of these various other institutions that had been placed under your hands ?

A. Yes, sir.

Q. About how many reports did you have come into your hands along the latter part of January?

A. I could not say, but I should say about 200; we had 165 savings banks at that time.

Q. When they come first, do they come to you in the department?

A. No, sir; they do not.

Q. What is the order that you have necessarily to pursue?

A. They are filed and the clerks, whose business it is to examine these reports, tabulate them for the annual report made to the legislature, taking them alphabetically by counties as they appear by our printed report, and they take them as fast as they come in and examine the reports and verify the figures and tabulate them.

Q. How long before this work is completed?

A. It is not completed sometimes until April; we have to send back so many reports for correction that we do not get the full reports in until the 1st of March; we had to send back nearly one-half of the reports this year.

Q. Did you receive this report of January, 1875—whether the report of January 1, 1875, came to your knowledge until the report which was made by your examiner, March, 1875, was received by you?

A. I presume I never saw that report until that examiner's report was sent to me; I would not naturally, under the ordinary circumstances.

Q. When you got the examiner's report of March, 1875, you would call for the report of January 1, 1875?

A. Yes, sir; I presume I saw it shortly after it came; I could not say just what day it was.

Q. In regard to this other real estate, I refer you to the report of your examiner in April, 1873, as to the value of the Tarrytown property; what is that returned at?

A. \$138,000.

Q. In the next report, made July 1st, 1873, it was reported then the same, was it not?

A. Yes, sir.

Q. Turn to January, 1874; it is returned at the same amount?

A. Yes, sir; at the same price.

Q. The bank report?

A. Yes, sir.

Q. Turn to July, 1874?

A. It is the same price.

Q. Now turn to January, 1875?

A. It is the same.

Q. Now turn to the report of your examiner, as of March, 1875?

A. It is the same.

Q. Now, I go back again to the balance of the real estate, contained in your examiner's report of April, 1873; how much did that aggregate?

A. \$267,300.

Q. By reference to your examiner's report of 1875, I ask you, whether you do not find that a mortgage on some of this real estate, which was returned in 1873, as \$50,200, does not appear in the examination of 1875, as \$42,500?

A. It does.

Q. This indicates that on that mortgage \$7,700 had been paid?

A. It is so reported here.

Q. If you add to this \$267,300, which is returned by your examiners in April, 1873, the amount \$7,700, which had been paid on the mortgage, does not that make \$275,000?

A. Yes, sir; it does.

Q. As the value of the real estate, \$275,000?

A. Yes, sir.

Q. Increasing, in other words, the value of the bank property by \$7,700?

A. Increasing the interest of the bank in the property by that amount.

Q. So that the value of that property, after the payment of that interest, would be \$275,000; that would be the interest the bank had?

A. Yes, sir; it would increase the interest of the bank just in proportion as they paid off the mortgage.

Q. Refer to the next report, which is as of July 1st, 1873, and see whether that is not the amount which is there returned?

A. That is the exact amount there returned.

Q. Turn to the next report, January 1, 1874, and state whether that property is not returned there at \$275,000?

A. It is.

Q. Turn to the next report of July 1, 1874, and see if it is not returned the same amount there, \$275,000?

A. The same amount.

Q. Turn to the next report, January 1, 1875, and there there appears to be an increase for the first time?

A. There it is increased to \$288,618.51; the cost of the market value.

Q. This report didn't come to your attention until the report which Mr. Reid made to you in March, 1875?

A. That fact never appeared to me until after Mr. Reid's examination, that I recollect of.

Q. Having thus gone over the real estate, I want you to state whether during any portion of the time that you were superintendent,

down to the time of Mr. Reid's report of his examination to you, if there had been any increase of the value of the real estate?

A. Not as shown by the report.

By Senator ST. JOHN :

Q. Neither by the bank or the examiner?

A. No, sir.

Q. Not brought to your knowledge in any way?

A. No, sir; nor intimated.

By Senator WELLMAN :

Q. That is until the time of Mr. Reid's report of 1875?

A. Yes, sir; at that time it appears by the bank report of that year, that they had increased the value of the real estate.

By Mr. CHAPMAN :

Q. The character of the assets remained substantially the same from the time you made the first examination, down to the time of the report of the last examination to you?

A. Yes, sir; substantially the same assets, so far as the real estate goes.

Q. And so far as these questioned items are concerned?

A. Yes, sir.

Q. So that, so far as the character of these assets, and the right of the bank to hold them are concerned, that you considered to have been acted upon by the supreme court, and by your predecessor, as you understood it, and you acted upon that?

A. I so found it in the official report of Mr. Howell; he distinctly states the fact, and I knew it as a matter of common talk whenever the question was brought up.

Q. Now, I come down to this report, and your action under the report, when your attention was first brought to the condition of the bank by the report of your examiner in 1875?

A. I do not undertake to give exact dates and words, but I will give the substance of the whole thing as near as I can; when the report of Mr. Reid first came to my attention, that was the first savings bank that had been reported to me that had required, as I thought, any attention to close up.

By Senator ST. JOHN :

Q. That was in 1873?

A. In 1875 Mr Reid's examination of 1875 showed this deficiency

Q. It showed a deficiency in 1873?

A. Yes, sir; with an excess of income; I treated that as having been disposed of, just prior to my introduction to the office, by the court and the encouraging letter of Mr. Reid that the bank was in a fair way to become a good bank and to survive; when Mr. Reid's report came, in 1875, showing the insolvency of the bank, my attention was first called to it; I have no doubt I compared it with the January report, and saw there was a big discrepancy between the two reports, and then the question presented itself, what was the best thing to do? the first thought was to close it at once; I talked with Mr. Lamb about the subject, as he testified here to-day; that was his view; but it occurred to me that we were then passing a general savings bank act; the bill had been framed and introduced, and it was in the hands of both committees; I had spent considerable time over it, and that bill contained some remarkable provisions, considering the merging of one bank with another; I made up my mind that it would be better to wait until that bill became a law, having in view the effect it would have on the other savings banks; I was satisfied that that bank would have to be closed.

By Senator ST. JOHN :

Q. What time did that bill become a law?

A. The 17th of May, I think, toward the close of the legislature; the point that I had in my mind at that time and ever since, up to the time of the final collapse, was to try and save those smaller banks; I was satisfied in my own mind that when I closed up the Third Avenue Savings Bank, it would be followed by a good many others that were just barely solvent; my idea was, that there would be a withdrawal of deposits from all these smaller institutions, and that they would come to an end sooner or later from the fact that they could not sustain themselves, would not do business enough, would not have strength enough, so I left the matter until we got through with the legislature, and the law was passed.

By Mr. CHAPMAN :

Q. Was there a great difference of opinion in regard to the merging clause, among banking men?

A. There was great difference of opinion in regard to many provisions in the bill; I don't know as there was specially about that, but there was great difference of opinion growing out of the fact that every locality had its own particular interest in the passage of this bill, through some provision or another; within a few days after the legislature adjourned, I went to New York in reference to this matter, not only the Third Avenue Savings Bank, but in reference to future action in regard to these other smaller banks, and I had a con-



sultation with quite a number of savings bank officers of the larger and smaller banks, and we talked this over again —

[Objected to, on the ground that any thing said to the people in New York had nothing to do with the case here.]

Q. You took advice?

A. I didn't go for advice; I went to consult with them as to the operation of this law and what could be done with it.

[Objected to as immaterial and irrelevant. Objection overruled.]

A. I made an effort at that time to bring about a consolidation, if possible, of some of these smaller banks that I was apprehensive would lose their business and have to be closed up with the larger banks, under this law of 1875, and in order to do that, of course I had to see the bank officers of the smaller and larger banks; it was a new proposition, and of course men differed, in their judgment, as to how it would work, but I made the effort and at one time it looked as though something might come out of it.

By Senator WELLMAN:

Q. You made that effort in regard to the Third Avenue Savings Bank, as well as the others?

A. It grew out of that; I had no faith that any bank would take hold of the Third Avenue Bank; I had made up my mind that this Third Avenue Savings Bank had to be closed up.

Q. What time was this?

A. The third of May; my object was to try and save the other banks first; this was the first bank that was closed; it was the beginning of the end of these dozen banks that have been closed up, and it was my first experience in closing up savings banks; as I said, it promised some success, and I left the matter under advisement, to be finally disposed of at a subsequent time; left them to think the matter over and see what could be done; if any thing.

By Senator ST. JOHN:

Q. Did any thing ever come out of it?

A. No, sir.

By Mr. CHAPMAN:

Q. Go on in the regular order of events?

A. I think I went down shortly after again; I am not positive; I know I went in May, for I have records to show it; at that time I came from New York; in the early part of June there was a good deal of excitement and anxiety in Wall street; some half a dozen brokers failed during the early part of June, and Broadway, Wall street and

Broad street were much excited ; the old firm of Turner Bros. failed, owing a million and a half of dollars, and there was a good deal of excitement and nervousness ; when I went down again, I don't remember the date, I am not positive that I did go, until the time of the Duncan & Shearman failure ; my best recollection is, that I went in the meantime in regard to this same subject.

Q. You mean you went down again after the failure of Duncan, Shearman & Co. ?

A. No, prior to that, I think I went once more.

By Senator WELLMAN :

Q. Beside this time that you went the latter part of May ?

A. Yes, sir ; besides that ; this was still pending and it was not disposed of ; it was not absolutely determined that they would do any thing or would not ; I mean in reference to the merging of banks.

By the CHAIRMAN :

Q. State more fully in regard to this merging of banks, the effect upon depositors in other banks, how the merger would affect them ?

[Objected to. Objection overruled.]

A. I went down the last time with a view to settling this question either one way or the other finally ; the day I arrived in New York was the day of the failure of Duncan, Shearman & Co.

Q. The delay in not acting upon the Third Avenue Savings Bank until you went down this time, was to see whether any thing could be brought about under this new clause in the law, which was passed that year, in regard to the other banks ?

A. That was my object, not to save the Third Avenue Savings Bank, because I did not think it could be saved ; I made an attempt in that direction, but it was to protect the depositors of the smaller banks ; that was the sole object.

Q. You went down to see about the thing finally ?

A. As I stated, the failure of Duncan, Shearman & Co. took place the day that I arrived in New York ; I got there at night, and they failed about 11 o'clock that day.

Q. To settle this question of merger ?

A. Yes, sir ; I probably should not have gone if I had known of the failure ; I didn't know it until I got there.

Q. What date was that ?

A. Their failure, at first reported, was the 27th of July ; the next day there was great excitement in New York ; very shortly, within a day or two after that, I called on these gentlemen and others who have testified in regard to closing up this bank.

By Senator ST. JOHN :

Q. It was soon after that that you called on Mr. Stewart and Macy and the others ?

A. Yes, sir.

By Mr. CHAPMAN :

Q. And John J. Cisco ?

A. Yes, sir.

Q. You called on the men that came before us to testify ?

A. Yes, sir.

Q. Mr. Morrison ; who was he ?

A. The president of the Manhattan Bank ; that is a State bank which represents the State, and pays the interest on the bonds of the State ; the State agent, and also where the bank plates are deposited.

[All this is objected to.]

The WITNESS. John J. Cisco is another gentleman I called on.

Q. Who was he ?

A. He was at one time a sub-treasurer in New York, a prominent man, a banker ; I called on Mr. Macy, the president of the Seaman's Bank for savings.

Q. A large institution ?

A. Yes, sir ; one of the best.

Q. Mr. Stewart ?

A. He was president of the U. S. Trust Co.

Q. The largest trust company ?

A. The largest on this continent, I believe ; I called on several others ; I called on the representative men, representing the different moneyed interests in New York.

Q. On the question of closing up this Third Avenue Savings Bank ?

A. Yes, sir ; they all, I believe, with one accord, said it ought not to be done under the circumstances, unless I wanted to injure the other banks, that that would be the general effect.

[This is all taken subject to objection.]

The WITNESS — I stated to all of them, not in detail, I had no figures with me, that this Third Avenue Savings Bank was insolvent and had got to be closed up ; we had got through with the question of merger, it did not amount to any thing practical ; they all agreed that it would be very inexpedient to do so just then ; I think Mr. Stewart suggested to wait until after the summer vacation ; the character of the assets were such that the bank would be no worse off than it was then at that time, and the public fever and the public mind would be cooled off, and it would be in the interest of the other banks

that would be likely to be affected by delaying the matter until such time as it was safe to proceed.

Q. Did you tell them also about the effect of closing this Third Avenue Savings Bank ?

A. We talked that over, that this would precede the closing of quite a number of savings banks, as a natural consequence.

Q. It did in fact, did it not ?

A. It did in fact.

Q. How many banks followed the closing of the Third Avenue Savings Bank ?

A. I think eleven others have been closed up since that time ; the panic of 1873 affected the banks more or less, particularly the small banks, during the year 1874 ; it was on that advice and in conjunction with my own judgment in the matter that I postponed the closing up of that bank until the time that I did, which was some six weeks.

Q. I also ask you if prior, even whilst you were discussing this question of merger, if, as you understood it, there was a sensitiveness in the money market ?

A. There was through May, and more or less in June, a good deal of sensitiveness.

Q. Is it not the fact that the report of Dunn and Barlow showed that there were more failures during that six months than any six months for three or four years before ?

A. Yes, sir ; five or six brokers failed in New York in June, brokers of long standing, and also the large London failures reported in the daily papers, and there was a good deal of anxiety in the minds of moneyed men in New York, more so than they had had since 1873.

Q. You were looking for the interest of all the depositors of all the banks ?

A. I considered it my duty as superintendent of the bank department, and I so regard it now, to look to the interests of the depositors in all those banks as well as one, and that any action that I might take at a specific time that would tend to injure the depositors generally in the savings banks should be considered with a good deal of care and caution before action was taken.

Q. At this time about how many depositors were there under your supervision ?

A. There were over 800,000 depositors in savings banks alone.

Q. What amount about on deposit in New York ?

A. There was over \$180,000,000 in savings bank deposits in New York state at that time.

Q. In your judgment the matter of closing up this Third Avenue

Savings Bank, to be followed by these other banks, was a matter you had got to proceed with great caution?

A. That is the way that I looked upon it, and I was very careful to proceed with caution.

By Senator ST. JOHN:

Q. Is not the superintendent of the bank department governed by the law? Does not the law point out what he has to do?

A. It does; it gives him certain discretionary power; I acted under the law; I knew what the law was.

By Mr. CHAPMAN:

Q. Did you consider it safe or expedient to do what you did then do, under the circumstances?

A. I would consider it very unsafe to the depositors generally, to have done different than I did.

Q. Whether you made a mistake of judgment or not?

A. That is for other people to say; my own judgment has not changed any in regard to it.

Q. The charge is "neglect" in this delay; was it a matter of neglect or a matter of judgment on your part?

A. It was a matter of constant anxiety and study all this time to do what was best for the savings bank interest.

Q. If there was any mistake, it was a mistake of judgment?

A. Purely; I had no motive — could have no motive.

Q. State if there was any relation existing between you and the Third Avenue Savings Bank, that would lead you to hesitate doing what you thought was the right thing?

A. None whatever; I had never met but one officer of the bank, and he perhaps for five minutes, in my life up to that time.

Q. If there is any mistake here I will ask you whether it was a mistake of judgment or whether it was a mistake of neglect?

[Objected to. The facts show, and that is for the senate to pass upon. Objection sustained.]

The WITNESS — I acted upon my judgment as to what was best for the savings bank interest.

Q. Is this the original letter of September 29, 1875, written and handed to the attorney-general, on which this bank was closed?  
[Handing letter to witness.]

A. Yes sir; this is my own handwriting and it is the original letter.

Q. In the charges, it is stated that your statement in the report sent to legislature in 1876, in regard to this savings bank, in which you stated that, on your recommendation, the attorney-general commenced an action and placed the institution in the hands of a receiver, is false; what do you say to that?

A. I say it is literally true.

Q. Is it true that, on your recommendation, the attorney-general commenced an action and placed the institution in the hands of a receiver?

A. It is absolutely true.

Q. State what the effect of putting the Third Avenue Savings Bank into the hands of a receiver had upon other small banks which you had been trying to protect; what was it followed by?

A. It was followed by the closing up, that same fall, of some five or six savings banks, and the next year as many more.

Q. Suppose you had reported the Third Avenue Savings Bank to the attorney-general, and it had been closed up on the first receipt of your report, would the depositors have been affected generally?

A. I think they would have been affected very seriously; much more so than at the time it was done; after the failure of Duncan, Shearman & Co.—it was the great sensation at that time—subsequent failures did not seem to affect New York or New York institutions as it had prior to that time; the public seemed to be calloused and were looking for these things; there were savings bank failures, and insurance companies failures, and private failures; it got to be a sort of an epidemic.

Q. If you had closed the bank on the receipt of the report of Mr. Reid, would the depositors in that savings bank have been benefited more than they were by waiting until the time when you did close it?

A. Of course, that is a matter somewhat of opinion; some of them would have been benefited and some would not; I think the average would be about the same, I should judge.

Q. Of course, some who were in there in March, 1875, were out when the bank was closed in September?

A. Undoubtedly.

Q. And some came in during this time who would be affected injuriously?

A. Yes, sir.

Q. So the injury would be to different parties in some cases?

A. Yes, sir.

Q. New depositors would suffer more than others?

A. They would have reason to feel worse about it.

Q. And the parties who got out in the intervening time would feel better?

A. Yes, sir; somebody had to suffer.

By Senator ST. JOHN:

Q. Do you say you think if it had been closed up at that time, they would have got no more?

A. I don't think they would ; I don't think it would have made much difference in the general result.

Q. After this first of March there was no dividends made, was there?

A. I don't know as matter of fact.

Q. How was it in July?

A. I don't know now.

Q. You don't know whether there was dividends made ?

A. If I knew, it would be hearsay.

Q. They were put into the hands of the attorney-general on this examination of March 23 ?

A. Yes, sir.

Q. You knew the bank, if it did not pay its interest, would fail right off ?

A. Yes, sir ; I assume that they paid the depositors on the first of July dividends.

By Mr. CHAPMAN :

Q. They had at their final closing up substantially the same assets that they had at the time of the examination in March ?

A. Yes, sir.

Q. I refer you to the letter of Mr. Reid to you, of March 24th, 1875, accompanying his report, and ask you whether that letter and the character of its contents was not one thing that led you to proceed with very great caution in regard to that bank ?

A. It did in connection with the report.

Q. I mean in connection with the other facts, and the surroundings and the times ?

A. Whether this did, specially or not, I don't know ; all these facts coming to my knowledge influenced my action undoubtedly about that.

Q. Some point has been made over the fact, or it has been claimed that the condition of the bank was worse in March, than reported to you by Mr. Reid ; state whether it is not a fact, that the worse the condition of the bank at that date, the worse would be the effect of a public announcement ?

A. Undoubtedly ; the worse the failure of an old institution like that, the greater the shock ; if the bank failed, and paid 90 cents on a dollar, the shock would not be half so great to the public as if it paid only 20 cents or 10 cents on the dollar.

By Senator ST. JOHN :

Q. How much did this pay ?

A. I don't know ; it has never been closed up yet ; I never saw the receiver until I saw him at this examination.

By Mr. CHAPMAN :

Q. I will ask you in regard to these personal bonds. I see in the report of the examination by Mr. Reid of April, 1873, he returns \$100,000 personal bonds, guarantee bonds. Was that taken under your administration ?

A. No, sir ; It was taken by Mr. Howell, after the examination in 1871.

Q. Taken by him into the department and those bonds held in the department ?

A. Yes, sir.

Q. Treated as assets by him ?

A. Yes, sir.

Q. Afterwards I understand it was increased to \$115,000. It appears by his report of 1875, that there was \$15,000 additional bonds ; were those ever brought up to the department ?

A. No, sir ; I never knew any thing about them, until they appeared in the report ; I can explain that ; it seems that the president Mr. Lyon, was abroad at the time they gave those bonds ; they were to give \$115,000, and they made up the \$100,000, and, when he came home subsequently, he put in his bond for \$15,000 ; I think it was Mr. Green that made the \$15,000 bond ; I never saw the bond, until the receiver was appointed ; then I think I saw it.

Q. Do you know any thing in the law to prohibit giving the bond ?

A. No, I do not ; I think a superintendent would be clearly justified, if he could save \$100,000 to the depositors, by taking it.

By Senator ST. JOHN :

Q. These bonds were all by the trustees of the bank ?

A. As I understand it, trustees and officers.

By Mr. CHAPMAN :

Q. You don't know, personally, any thing in regard to their litigation on this bond ?

A. No, sir ; I don't know any thing about it except as I see in the newspapers ; after the bank was handed over to the attorney-general I have no further supervision of it, and have no power over it.

By Senator ST. JOHN :

Q. Is there any law authorizing trustees of savings banks to use, in any form, the moneys of the institution, to borrow it, or have it directly or indirectly ?

A. They have no right to use it in any way, as I understand the law, clear and emphatic, to get no personal benefit of it.



Q. Was that the law previous to the year 1875 ?

A. It has always been the law ; I have declined, since I have been superintendent, to take any personal bonds of that character.

By Mr. CHAPMAN :

Q. In regard to the appointment of Mr. Carman what is there about that ; it is claimed that you got him appointed ?

A. I can tell you what there is about it, so far as I am concerned ; I was in my office one morning, it now appears to be the 29th of September, 1875, and Mr. Carman and another gentleman, and Gov. Hoffman came in there sometime in the morning, perhaps about ten o'clock, or along there, and said — Gov. Hoffman introduced the conversation — he said that he had come in about the affairs of the Third Avenue Savings Bank ; I said he was just in time, for I was then preparing the recommendation to the attorney-general to close the bank up ; then Gov. Hoffman said, speaking for all the other gentlemen, I suppose, that they had stopped taking deposits, and had not taken any except special deposits, which they had put in envelopes, for some days, and the trustees had concluded that they could not go on ; then we had a rambling talk about matters and things, and they went out ; I sent the communication to the attorney-general, I think, while they were out ; whether I ever saw them together again or not, I don't remember ; I think not, however.

Q. Did you go over to the court in the appointment of Mr. Carman ?

A. No, sir ; never was near the court in regard to any appointment.

Q. I see you swore to the complaint, which the attorney-general issued ; have you any recollection in regard to it ?

A. No ; I have not ; but of course I did it as it appears so ; either I or my deputy had to swear to all the complaints in this matter ; that is the usual form.

Q. It was Gov. Hoffman that told you the trustees had made up their minds to wind up the concern ?

A. He came there with the secretary, Mr. Carman, and another gentleman.

Q. They said they were going to wind it up ?

A. Yes, sir.

Q. At what time had the letter of Mr. Reid, accompanying the report of March, 1875, occurred to you ?

A. No ; I had not thought of it.

Q. At that time, also, I see in your letter, you allude to official information which subsequently came to your attention ; you found that the bank had been in a bad condition for a year or so ?

A. Yes, sir ; the whole matter came up and Mr. Reid's report satis-

fied me that all that deficiency could not have taken place since the date of their last report up to the time he made his; I assumed that report was not correct at that time.

By Senator ST. JOHN :

Q. Which report was not correct ?

A. The bank report of January 1, 1875, after getting Mr. Reid's report.

By Mr. CHAPMAN :

Q. Mr. Carman had recently come into the affair as secretary, had he not ?

A. Yes, sir; quite recently.

Q. Prior to the receipt of the report of your examiner in March, 1875, did you have any reason to believe that there had been any change in the character or condition of the bank from what it was at the time it had been passed by your predecessor ?

A. Except as shown by the reports.

Q. No material changes ?

A. No, sir.

*Cross-examination by Mr. OLMSTEAD :*

Q. You have been present during all the examinations here during this Third Avenue Bank examination ?

A. Yes; I think so.

Q. Did you ever see, while you were in the department, Mr. Hennessey's report ?

A. Yes, sir; I have seen it.

Q. When did you see it ?

A. I can't tell you; I never read it all through; it is an immense mass of stuff.

Q. How long ago did you see it ?

A. I can't tell you.

Q. Did you understand from that report that it represented this bank to be in a solvent or insolvent condition ?

A. I never read the report; I took Mr. Howell's official statement; I never read that report through.

Q. What did you understand from it ?

A. I did not understand any thing from it, except as I found it in Mr. Howell's report.

Q. Did you or not take pains to inform yourself in regard to the condition of the bank ?

A. No, sir; I never did.

Q. Did you yourself examine the papers and the records of the court

upon the application for the appointment of a receiver about which you have testified?

A. No, sir.

Q. Do you know what those papers contain?

A. I know only as they appear reported in the newspapers.

Q. How do you know then that the condition of this Third Avenue Savings Bank was presented to the court in these papers?

A. Because the papers show themselves as published.

Q. How did you know it?

A. At that time, when I first went in, I did not know.

Q. Did you ever know?

A. No, except as I saw it in the papers; as I said before, I took Mr. Howell's official statement of the condition of the bank.

Q. You never heard, except from the papers?

A. Yes, sir; I did from the clerks and the deputy.

Q. You never yourself examined the papers to ascertain?

A. No, sir; I didn't go back to examine any papers prior to my time.

Q. Do you think, if the actual condition of these assets and this bank had been presented to the supreme court, they would have allowed it to continue in business?

A. I think they did; I have no reason to think otherwise; I judge what the court would do, by what it does.

Q. Do you think if the actual condition of these assets and this bank had been presented to the supreme court, they would have allowed it to continue in business?

A. What time do you refer to?

Q. I ask you if, at the time when the application was made to the supreme court, this condition of affairs that exist now had been presented to the court, would they have allowed it to continue business?

A. I answer by saying they did refuse to appoint a receiver; I am not going to give an opinion against the supreme court.

Q. Do you know whether the condition of the bank remained the same after the application to the supreme court for a receiver as before?

A. So far as I know, it did.

Q. Do you know?

A. I know only by the reports and the information from the office.

Q. What information did you receive upon the subject?

A. The general fact that I have stated, that Mr. Howell made an exhaustive examination and decided and passed upon the question, all the questions that were brought up in connection with the bank.

Q. Have you any other knowledge, except from hearsay, whether

the condition of the bank was the same, remained the same from the time of the application to the supreme court for the appointment of a receiver as before?

A. Yes, sir.

Q. What?

A. Official reports.

Q. Then inform the committee what you discovered in regard to that bank, whether the condition did remain the same or did not?

A. The reports show they were substantially the same; they are all in evidence.

Q. But you don't know whether the condition of the bank was presented to the court in the moving papers?

A. Not of my personal knowledge.

Q. While you have been superintendent, have you ever made any personal examination into the affairs of different banks, or any of them?

A. Yes, sir.

Q. Did you ever, or did you not, consider the condition of this Third Avenue Savings Bank such as to require your personal examination?

A. I did not; I had no particular reason for thinking so.

Q. In your opinion was this Third Avenue Savings Bank solvent or insolvent in March, 1875?

A. It was insolvent.

Q. I desire to call your attention to the statute; the statute of 1871, chapter 693, in which it is provided that, "Whenever it shall appear to the superintendent, from any examination made pursuant to the provisions of this section, that any savings bank or institution for savings has been guilty of a violation of its charter or the law, or is conducting business in an unsafe manner, he shall, by an order under his hand and seal of office, address to the institution so offending, directing a discontinuance of such illegal or unsafe practice and a conformity with the requirements of its charter and of law;" do you consider, in March, 1875, this bank was conducting its business in a safe or unsafe manner?

A. I knew nothing about it being conducted in an unsafe manner; I knew, as a matter of fact, that it was insolvent; how it got so, I don't know.

Q. Do you consider that the bank at that time was conducting its business in an unsafe manner?

A. I cannot say I really did not; I considered it insolvent and that law did not apply at all.

Q. You cannot say whether you did or not?

A. I didn't regard that provision of the law in a case like that applying where the bank was insolvent.

Q. Under what provision of law do you claim that you had the right to close the bank if you chose?

A. I closed it under the provision of the act of 1875, the general statute.

Q. But you were acting under this act of 1871, prior to the act of 1875?

A. Certainly.

Q. State whether, prior to the act of 1875, you considered this bank was doing a business in a safe or unsafe manner?

A. I did not consider it doing business in an unsafe manner up to the time of Mr. Reid's report in March; then I considered the bank insolvent.

Q. Do you consider those words, "an unsafe manner," applicable to the general banking interest, or only to the bank itself under consideration?

A. That word "unsafe," there, relates probably entirely to the individual bank, as you read it.

Q. It is used in the same general manner in the law of 1875?

A. Substantially.

Q. It is under that general provision that you claim to have the power to close the bank?

A. No, sir; under another provision.

Q. Did you, under the law of 1871, have power to close the bank, as you understand it?

A. I think so.

Q. Under that provision that I have read?

A. No, sir; under another.

Q. State what provision?

A. It is that where the superintendent deems it unsafe or inexpedient for a bank to continue business, then he shall report it to the attorney-general.

By Mr. CHAPMAN:

Q. Could you do it until the report of Mr. Reid in 1875?

A. No, sir; I don't think I could.

Q. Under any provision of the law?

A. No, sir.

By Mr. OLMSTEAD:

Q. You could give notice to the attorney-general under the act of 1871?

A. Yes, sir.

Q. If you considered the bank doing a business in an unsafe manner?

A. I could, no doubt.

Q. State whether in 1873, you considered the bank doing a business in an unsafe manner?

A. I saw nothing to induce me to believe they were doing business in an unsafe manner; that says "is" doing business; I didn't go back and see what they had been doing.

Q. Then I understand you from your testimony, to say that in your opinion, those words have reference not to the particular bank which may be solvent or insolvent, but to the general banking interest?

[Objected to.]

Q. I understand you to say you didn't know or didn't think, between the years 1873 and 1875, that this Third Avenue Savings Bank was doing a business in an unsafe manner?

A. I had no knowledge of it, except what the reports show, and they showed nothing.

Q. Don't you think the reports show that they were doing business in unsafe manner?

A. No, sir.

Q. Didn't you think the report of 1873 did?

A. No, sir.

Q. Or of 1875?

A. That is the final report.

Q. Are you familiar with the value of securities?

A. To some extent.

Q. Do not you consider it your duty as superintendent to be familiar with bank securities?

A. A bank superintendent is not supposed to know every thing; he is supposed to know some things.

Q. Don't you consider it your duty to be familiar with the value of general securities?

A. Yes, sir, in a general way.

Q. If you are not familiar, it is your duty to inform yourself, so far as they are taken by banks?

A. Undoubtedly.

By Senator ST. JOHN:

Q. In reference to these foreign stocks, had this bank any right, under the law, to take them; I speak of North Carolinas; and they have Virginia State bonds, Tennessee State bonds, Alabama State bonds; Louisiana State bonds, Georgia State bonds and Kansas State bonds among their assets; I make the simple inquiry, whether, in your opinion, that bank had any business in holding these securities at all?

A. It depends altogether on the question of their market value at the time they were bought under the statute.

Q. If they were above par in the market?

A. At, or above par at the time they were purchased.

Q. The bank itself reports these stocks in the January report of 1875, at a cost of \$313,264; they report the par value at \$347,000; therefore, they were not par when they bought them; they must have been bought at a considerable discount — a discount of \$35,000; that shows for itself, does it not?

A. They might have bought them under the charter; I don't know any thing about that, when they were bought, or the cost.

By Senator WELLMAN:

Q. I would like to know if, in your opinion, the available fund clause of their charter would be repealed by a general act passed subsequently, prohibiting investments in southern securities?

A. I think it would; they were permitted to hold any thing that they then held, until such time as they could dispose of them for the interest of the bank; I will answer this way as matter of fact, some of the best New York savings banks, the very best we have got, hold these same class of bonds that were bought years ago; for instance, a certain bank has \$140,000 of North Carolinas, one of the largest banks in the city of New York, bought twenty years ago.

By Mr. OLMSTEAD:

Q. The question I asked you was whether, where a bank was holding securities that were worthless and not proper securities, whether a bank ought to be allowed to proceed in business holding those securities?

A. That would depend on the character of the rest of their assets; I think if the bank was solvent they should be permitted to do business.

Q. You think that this bank, after March, 1875, was doing business in a safe or unsafe manner?

A. They were doing business — the bank was in an unsafe condition, but whether they were doing its business in an unsafe way that is another thing.

Q. Do you suppose the act of 1875 merely refers to the manner in which the business was conducted?

A. Yes, sir.

Q. Then on what power can you close a bank? Can you close a bank at all, in your opinion, where it was totally insolvent, although it might be doing its business in a safe manner?

A. I think there is ample power in the law to close up an insolvent savings bank.

Q. You think the bank superintendent has a right to do it?

A. He has a right to move the attorney-general to do it.

Q. He has the right, under the act of 1875, to notify a bank to stop?

A. He has a right to notify them to stop doing illegal practices, but not to close up the bank.

Q. The act of 1875, section 44, provides that "whenever it shall appear to the said superintendent, from any examination made by him, or from the report of any examination made to him, pursuant to the requirements of such corporation, has committed in violation of its charter of law or is conducting its business and affairs in an unsafe or unauthorized manner, he shall by an order under his hand and seal order a discontinuance of such illegal or unsafe or unauthorized practices," etc.; the question is whether, in your opinion, on March 22d and 23d, 1875, this Third Avenue Savings Bank was conducting its business in an unsafe or unauthorized manner?

A. The law for closing up savings banks is another provision there; this is to direct them to discontinue illegal practices under the hand and seal of the superintendent, and subsequently, there is a provision covering the case of closing a bank.

Q. Did you consider it unsafe for that bank to continue its business after March 22 and 23, 1875?

A. I did not consider it safe or expedient at that time to close that bank.

Q. The question is, whether you considered it unsafe at that time for this bank to continue to transact its business?

A. In a general sense, probably, I did.

Q. Do you consider that word, "unsafe," as applicable to the interest of the bank itself or to the general banking interest?

A. I should construe that word to refer to that particular bank.

Q. Then was it not your duty, immediately upon your receiving that report of the 22d and 23d of March, 1875, to have notified the attorney-general, so that the bank could be closed?

A. No, sir; I don't think it was; I will explain it; if the legislature intended that to be the fact, they would have said that, "whenever a bank appears to be insolvent, it shall be the duty of the superintendent to give the fact to the attorney-general forthwith."

Q. It says he shall communicate the facts?

A. Whenever he deems it unsafe or inexpedient; it clothes him with discretionary power.

Q. That is your opinion?

A. That is the opinion of lawyers and judges.



Q. Do you think it was a proper thing to do, where a bank is insolvent and absolutely so, for that bank to continue receiving deposits?

A. As an independent proposition I should say not.

Q. Is it or is it not your opinion, that you are confined in your duties to the circumstances and condition of each bank, without regard to the other banks?

A. No, sir, it is not; it was never held so by any superintendent that I ever heard of; otherwise, he would have no discretion.

Q. You say that wherever you consider it for the general public good to continue a bank, in your opinion, although it is entirely insolvent, may still continue to receive deposits and do business?

A. Yes, temporarily.

Q. For the space of six months?

A. That would depend on circumstances.

Q. Why didn't you proceed on the 22d of March to close this bank?

A. I stated that the legislature was then engaged in passing a general savings bank law, with some peculiar provisions in it; that was one reason.

Q. They are the same as you have stated on your direct examination?

A. Yes, sir, they are; I will state as an independent proposition, I should think it not only wise, but the duty to close up a savings bank, when it was discovered to be insolvent, if there were no other considerations interfering which would influence the superintendent to act differently.

Q. You don't agree with Mr. Stewart, who testified the other day, in regard to that matter?

A. Yes, sir, I do, perfectly.

Q. He said that he thought it was not proper to continue after insolvency?

A. He swore that he advised me to continue this, as he really did.

Q. I understand you to say that the general assets of this bank remained the same as you understand it, and the valuation so put upon them remained the same from 1873 to 1875?

A. As far as the real estate goes, substantially the same.

Q. Do you remember the testimony of Mr. Ludlow and Mr. Morgan in New York, the other day?

A. Yes, sir.

Q. Did you hear their testimony to the effect that real estate had largely depreciated during those years?

A. Yes; I heard that testimony.

Q. Do you think that real estate did depreciate during these years?

A. I think there was a perceptible depreciation took place in the fall of 1874 and the spring of 1875.

Q. Then you do not agree with them in that matter ?

A. I am giving my views.

By Senator ST. JOHN :

Q. During the year 1874, don't you think it rather depreciated ?

A. Not a marked depreciation ; that is my experience ; I will say one thing, that this witness swore under a misapprehension, Mr. Morgan, that bank property covers three lots instead of two ; one on Third avenue and two on Twenty-sixth street, and he swore as to two lots.

Q. You have stated, on your direct-examination, that during these examinations you had confidence in Mr. Reid ?

A. Yes, sir.

Q. Have you the same confidence in him now, after hearing the examination ?

A. He may have made some mistakes.

Q. Did you examine these reports yourself, personally ?

A. I presume I did, some of them.

Q. Were you in the habit of doing it or not ?

A. I did not do it personally in all cases, unless there was something special reported.

Q. You left it to your deputies ?

A. To a great extent.

Q. How long would it take you in your opinion, to examine 200 reports ?

A. That would depend very much on how much you examined them ; if you went to the different institutions to verify the reports, it would take the whole year and more.

Q. Take the reports that are returned to you ?

A. I could not tell you.

Q. Is not that your business to do that thing ?

A. No, sir, it is not.

Q. What is your business ?

A. It is a general superintendency ; it is not to do all the clerical work in the office.

Q. Do you consider that clerical work ?

A. Yes, sir ; I have a man specially, in the first instance, that does it.

Q. What is the business, then, of a bank superintendent, if not to examine the reports ?

A. Many things.

Q. What one thing is there ?

A. The general business.

Q. I am talking about specific duties now; do you know of any business you have, except to examine into the condition of the banks?

A. I have already stated that is generally his business.

Q. You do not consider it your business to examine all the reports?

A. I do not say so; I could not do it personally.

Q. Could you not examine 200 reports?

A. We have 400.

Q. Could you not examine 400 report.

A. It would depend on the character of the examination you made?

Q. I speak of the reading of the reports themselves?

A. It would take several months to read them and verify them.

Q. I am not saying a word about verification.

A. Then you do not examine them if you simply read them over.

Q. How long would it take you to read them?

A. That would not take a great while.

Q. How long?

A. Take the schedules and every thing, it would take some months.

Q. Would it take you three months?

A. That is a matter of opinion.

Q. Would it take you three months to read four hundred reports?

A. I could not give you the time.

Q. Please look at the reports of 1875, shown you, and state how long it would take you, in your opinion, to read through that book?

A. There is not but little of it in that book; there are several thousand sheets.

Q. I want you to answer my question; how long would it take you to read that book?

A. It would not take a great while.

Q. How long would it take you to read through those printed reports as tabulated?

A. Not a great while; I generally do that.

Q. What do you mean by generally?

A. I do not read the report of the Bowery Bank, for instance; where there is any bank that I have any suspicion about, or any thing that attracts my attention, I examine it more carefully.

Q. Are these the only reports you read?

A. I don't say that; I read all the reports; I look over most of the reports.

Q. You cannot say that you read them all?

A. No, sir, but some one in the office does it.

Q. Then if your clerks in the office do not do their duty by giving proper extracts of these reports, you would not know what it contained?

A. I might and I might not; many cases I probably should not.

Q. You stated in your direct examination that your business is to

look after the interests of all the depositors of all the banks, and not after those of one only?

A. That is as I understand it.

Q. Do you consider your duty as a bank superintendent would allow you at any time to ignore the interests of one bank or one set of depositors for the general good of all the depositors?

A. That is a question difficult to answer; it is a matter of opinion or discretionary; as an independent proposition, in ordinary circumstances, I have no hesitancy in saying that it would be the duty of the superintendent to close up the bank when he discovered it was insolvent; but there would be exceptional times and cases when he would be doing great injustice to proceed upon that theory.

Q. Do you consider your duty as a bank superintendent would allow you at any time to ignore the interests of one bank or one set of depositors for the general good of all the depositors?

A. I have answered that as fully as I know how.

Q. You can answer it yes or no, can't you?

A. No, sir; I could not.

Q. Don't you consider that in your course in the Third Avenue Savings Bank that while injustice would be done to all those persons who deposited after March, 1875, that such a course would be for the general good of all the banks and of the banking system?

A. I considered the course I took in the interest of all the banks, and that was the sole and only motive.

By Mr. CHAPMAN:

Q. By "bank" you mean depositors?

A. Depositors, of course.

By Mr. OLMSTEAD:

Q. Do you not consider that where a bank is insolvent, the loss should fall wholly upon those parties who are interested in the bank at the time of its insolvency?

A. Undoubtedly that would be true as a general proposition.

Q. How did it happen that these gentlemen from New York, the trustees of this bank, happened to be here on the 29th day of September, 1875, when these proceedings were taken for the appointment of Mr. Carman as receiver?

A. I cannot tell you.

Q. Did it happen as a matter or chance?

A. So far as I knew, at that time, of course, they informed me when they came there what their object was.

Q. You intended to move on that day?

A. I was moving at the time they came into the office ; I had the books and papers out examining the law, and said so to Gov. Hoffman.

Q. Did you know at that time of the report of January 1, 1875, which was given by the bank officers to the department ?

A. Yes, sir.

Q. You knew at that time, of the report of March 22d and 23d, 1875 ?

A. Most assuredly.

Q. Did you not believe at that time, that the report made and sworn to by Mr. Carman and Lyons on the 1st of January, 1875, was false ?

A. I don't know whether I thought of it or not, as a matter of fact, it was so indefinite.

Q. Did you not consider it your duty at that time to prevent the appointment of a receiver like Mr Carman of that bank ?

A. I don't think the question came up in that way ; the state authorities knew the fact ; the matter was talked over there.

Q. That fact with the former report ?

A. Nothing about the reports, but the fact that he was secretary to the bank.

Q. Was there any thing said about his former reports between you ?

A. I cannot say.

Q. Did you notify the attorney-general of those former reports ?

A. I presume not.

Q. Did you or did you not think it your duty to inform those gentlemen of the facts of the report of Mr. Carman's back statements ?

A. I only saw those gentlemen for a few minutes ; I don't think the fact occurred to me at all about those reports, in connection with Mr. Carman.

Q. Was it not a very natural thing to occur to you, if you believed that a bank officer had sworn to what was false, and then trying to become a receiver ?

A. I would, under the present light, but at that time I don't think that it occurred to me ; if I had regarded it as I do now, perhaps I should, although it is none of my business to appoint a receiver.

Q. Did you have any reason to suppose, on March 22d, 1875, or after you saw that report, that the depositors subsequent to that period would be repaid their deposits ?

A. I supposed under the action of the receiver they would get whatever there was.

Q. There was nothing in the nature of the case to lead you to suppose that they would be paid their deposits ?

A. Unless the trustees should step in and pay them.

Q. There was no proposition as that ?

A. Yes, sir, there was; I saw the secretary, and laid the matter before him.

Q. Did they propose any such action?

A. That was talked over; I hadn't much confidence in it myself.

Q. Do you consider, or did you consider, that that \$115,000 collateral bonds were assets of the bank?

A. I so treated them.

Q. Do you think that a collateral bond is an asset, a bond that is given as collateral for a debt?

A. I did not understand it was a collateral bond; it was a bond to be paid under certain contingencies as I understand it.

Q. Did you consider that as an asset—would you consider that a collateral or guarantee bond was an asset?

A. If it was simply a guarantee bond it would be only good when the guarantee was enforced, but I do not understand that to be the purport of that bond entirely.

*Re-direct by Mr. CHAPMAN:*

Q. You say that the loss from insolvency of the bank should fall on depositors at the time of the insolvency; is that ever possible?

A. No, sir; not absolutely.

Q. The insolvency comes before even the officers of the bank themselves know it?

A. There is always a pivotal point between solvency and insolvency,

Q. It runs along until a quarter or an annual day before the thing is discovered?

A. Yes, sir.

Q. You were asked in regard to your having read Hennessey's reports through; you said something about there being a large mass of reports?

A. Yes, sir; a mass of figures and evidence taken from witnesses.

Q. Could you verify the whole of them in six months?

A. No, sir.

Q. So far as the action in the department and the court, in regard to these assets and the bank under Mr. Howell's time, you had Mr. Howell's deputy there with you?

A. Yes, sir.

Q. And was in frequent conversation with him in regard to it?

A. Yes, sir.

Q. You got your advice largely from him; you assumed that, getting your facts from him, they would be correct?

A. There was the printed reports before me made by Mr. Howell and his deputy.

Q. Whether under the bank law you considered it unsafe or inexpedient to permit this bank to continue business as a general proposition, situated as you were at the time ?

A. No, sir; I did not; I thought it was in the interest of the bank and the depositors to permit it to continue business temporarily.

Q. Counsel asked if you heard Ludlow swear that real estate commenced to depreciate before 1874; you heard other witnesses swear that it did not commence to depreciate until the latter part of 1874, and the forepart of 1875 ?

A. Yes, sir.

Q. He next asked you if you looked over reports; whenever there is any thing that comes up to attract your attention toward any specific bank, don't you then look over the report with care ?

A. Always.

Q. That is what you did in this case ?

A. Yes, sir; I don't look over the senator's, for instance.

Q. You scan more or less the various reports that are presented to you ?

A. Yes, sir.

By Senator ST. JOHN :

Q. You say you don't look over mine.

A. I say I don't examine yours as carefully as I would this.

Q. That is the Newburg Savings Bank ?

A. Yes, sir; where a bank has never had any suspicion or trouble, and has a large surplus, we do not scrutinize it so closely.

By Mr. CHAPMAN :

Q. Is it not true that, from about the middle of January until about the middle of March each year, you have something like a 1,000 sheets of manuscript coming into your office that has to be arranged, tabulated and placed in order and verified ?

A. Yes, sir; more than 7,000 sheets.

By Senator ST. JOHN :

Q. You say where a bank is in, as we say a " ticklish " position, you are more apt to look after it than you are before ?

A. Yes, sir.

Q. I call your attention to the report, made January 1, 1874, of this savings bank, in which they report the stocks of other States at \$340,661, other stocks at \$56,700, at the cost, I am taking now, making \$397,361.87; they put them down at the cost and they are so extended here among the resources as \$397,361.87; do you consider that a fair valuation of those stocks at that time ?

A. I don't know now what they are.

Q. Was there any time when Virginia, Tennessee, Alabama, Louisiana and Kansas state stocks were above par to your knowledge?

A. I think so; I am not positive; "Alabama H" was at one time at par.

Q. But they have fell since?

A. Yes, sir.

Q. I want to know whether you regarded that as a fair estimate as to the cost of those stocks at that time; don't you think it is a liberal estimate for them?

A. Judging now from my present knowledge, I should say it was.

Q. The par value was \$440,000, and they are estimated at \$397,000; do you think that was a fair valuation?

A. I can't say whether it was or was not.

Q. I want to call your attention to these items; in looking over the assets of a bank, you have different heads for resources, you put down "bonds and mortgages;" you put down "real estate;" "cash in trust companies and in bank," and then you put down the amount of assets not included under any of the above heads and then among these items they put down \$40,134.31 accrued interest; then they put down furniture and fixtures at \$15,033.63; then they put down estimated value of stocks over cost \$55,986.18; I would like to ask you if you consider that a fair item to put in these assets after including other stocks at \$397,000, then to add in this among their assets \$55,986.18?

A. Does that include real estate, too?

Q. Nothing about real estate; it is the estimated value of stocks over cost; do you think that is a proper item to put in the assets of this bank?

A. I should judge not now.

Q. You never would have judged it was, would you, if your attention had been called to it?

A. I cannot say how it was at the time.

Q. By adding to that report that \$55,986.18, they were able to show an excess of assets over liabilities of \$6,973.67; January, 1875, the amount of assets of every description, not included under any of the above heads, the accrued interest, \$61,492; how could there be accrued interest?

A. There is no doubt but what that is a false report; I never saw that report until I got Mr. Reid's examination, then we compared them and found that was a cooked-up report.

Q. Furniture and fixtures, \$15,033.16; estimated value of real estate at Tarrytown over the cost, \$31,000. That is added to this \$138,000; estimated value of bank buildings and lots over cost, \$8,-



051.35; estimated value of stocks over cost, \$38,785.13. Of course you do not think those were proper entries to be put among assets of a bank, do you?

A. They would be if they were true.

STATE OF NEW YORK: }  
IN SENATE, *April 23, 1877.* }

A message was received from the Governor in words following :

“ STATE OF NEW YORK, EXECUTIVE CHAMBER, }  
ALBANY, *April 23, 1877.* }

*To the Senate :*

Since my message to the Senate of the date of April 5, 1877, recommending the removal from office of De Witt C. Ellis, Superintendent of the Banking Department, upon charges and proofs then presented, I have received additional charges against the same officer, which I herewith submit for your consideration.

Of these, the following are made by Mr. John Mack, of 365 Fifth Avenue, New York :

1. That Mr. Ellis was informed in March, 1875, by Geo. W. Reid and W. F. Aldrich, bank examiners, that the bond street Savings Bank had made investments not authorized by law, and that it then had a deficiency of \$20,000, in the annual income necessary to pay its dividends and expenses. The report of the gentlemen of their examinations made in March, 1875, attached to the next subsequent annual report of the department (see Assembly Documents, 1876, No. 97, pp. 269, 270), sustains this allegation. Mr. Mack adds that the bank was not put into the hands of a receiver until the following year, 1876.

2. That Mr. Ellis was informed in November, 1875, by George W. Reid, examiner, that the People's Savings Bank of New York city had a large deficiency of assets and a deficiency of \$10,000 in annual income. The document previously quoted, page 316, sustains this allegation. Mr. Mack adds, that no receiver was appointed until 1876.

3. A similar charge as to the Traders' Savings Bank.

4. A similar charge as to the Abingdon Square Savings Bank, reported by the examiner in November, 1875, as having violated its charter by certain transactions in real estate, sustained by the document already quoted, page 264.

5. A similar charge as to the German Savings Bank of Morrisania, reported in April, 1875, as having a deficiency of \$77,000 (see page 290 of document previously quoted), and allowed to go on until March, 1877, when it failed.

6. Charges of neglect of duty in reference to the Bank of Lansingburgh, the New York State Loan and Trust company and the Loaners' Bank.

7. A charge that, in the autumn of 1873, he, John Mack, personally urged upon Mr. Ellis the importance of an examination of the Security Bank, informing said Ellis, that he, Mack, had reason to know that from \$60,000 to \$80,000 of its capital had been lost; that Ellis refused and neglected to make an examination; that in April, 1874, the bank failed, disclosing a loss of three-fourths of its capital.

In addition to these, the following charge is made by Edward Mallon, of 434 West 28th street, New York city, to wit:

That Mr. Ellis was informed by George W. Reid and W. F. Aldrich, bank examiners, that in a written report of an examination made by them of the Third Avenue Savings Bank, on the 22d and 23d of March, 1875, that the bank was then insolvent, having a deficiency of assets of \$219,226.81, and of annual income of \$44,791; that there was also an old deficiency of \$115,000, discovered in previous years, for which last named deficiency the defendant had taken the personal bond of the trustees of the bank. These allegations are sustained by the report of the examiners, found in Assembly documents, 1876, No. 97, page 330.

Mr. Mallon alleges further that an additional deficiency of \$100,000 had been covered up by adding that amount to the cost of the banking-house. He also alleges that the trustees are now resisting payment of the bond of \$115,000, on the ground that there was no consideration given. He also alleges that the same report revealed large investments in real estate not authorized by the charter, and that many of the other securities were of doubtful value; which allegations appear to be sustained by the report above cited.

He also alleges that Mr. Ellis neglected to take any measures to close the bank, and that six months afterward, to wit, in September, 1875, it stopped payment; that during these six months great wrong was done by the trustees paying the deposits of certain favored friends and by the bank, in that period, inducing six hundred new accounts to be opened with it; and that a statement made by Mr. Ellis, in his report of the 30th of March, 1876, to the effect that in consequence of the examination made in March, 1875, he, the superintendent, had caused the bank to be closed, is untrue; that the loss to depositors is about \$1,200,000, the dividend being only fifteen per cent.

As the senate is already engaged in investigating charges similar to those heretofore presented, I have not deemed it necessary to submit those now made to Mr. Ellis for any preliminary explanation on his part. The allegations contained in these, that Mr. Ellis was officially notified by his own examiners of the dangerous, and, in fact, insolvent condition of the institutions named, are in several instances amply sustained by the documentary evidence cited. Whether he was guilty

in any of those instances of culpable negligence in delaying proper action after he had been so notified, is a matter of very ready proof or disproof before you. That there may be no technical objection to investigation of and action upon these charges, I again recommend the removal of De Witt C. Ellis from the office of superintendent of the banking department, as well upon the charges transmitted herewith as upon those heretofore presented and now under consideration in the senate.

L. ROBINSON.

Mr. Vedder moved that said message and accompanying documents be referred to the committee on banks, with instructions to investigate the same under the resolution heretofore adopted.

The president put the question whether the senate would agree to said motion, and it was decided in the affirmative.

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## TESTIMONY

TAKEN BEFORE THE SENATE, ON CHARGES AGAINST  
DE WITT C. ELLIS, SUPERINTENDENT OF  
THE BANK DEPARTMENT.

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## TESTIMONY

TAKEN BEFORE THE SENATE ON CHARGES AGAINST DE WITT  
C. ELLIS, SUPERINTENDENT OF THE BANKING DEPARTMENT.

IN SENATE.  
SARATOGA SPRINGS, *Monday July 23, 1877.* }

Mr. TRACY — Mr. President, the first piece of testimony I propose to introduce will be found at page 354 of the printed proceedings had before the bank committee of the Senate.

Mr. McGUIRE — Mr. President I would inquire whether it is the purpose to treat this testimony given before the committee as testimony in the case, or whether it is proposed to give the testimony *de novo*; I would like to have the counsel inform us what the intention is?

The PRESIDENT — The chair supposes it is the intention of the counsel for the State to treat the book as testimony in the case, and to read such portions of it as the counsel for the State may desire to call the attention of the Senate to, and in the order of proof as he introduces his testimony; is that the intention, Mr. Tracy?

Mr. TRACY — Your honor has very briefly expressed the intention. Where a thing has been examined into and the evidence taken, it is much more convenient, it seems to me, that the Senate should take it from the book rather than have it given over again, but we are under the order of the court, and if the Senate desires us to give it orally we will do it, but a great deal of time will be saved by taking it from the book.

The PRESIDENT — Unless some Senator desires to submit the question to the Senate, the chair will decide that the testimony contained in the printed book shall be received as testimony in the case.

Mr. CHAPMAN — Mr. President, the point, as I understand, if my friend's suggestion is not in the nature of an objection to this specific part, it is in the nature of an objection to taking out one piece from the testimony and reading that before the Senate and leaving the rest unread or to be read by piecemeal. Now, I do not understand Mr. McGuire's objection to be to the testimony all going into the case, and it being in it would not be necessary to read part, and it seems to me as though it would be a little improper to read part without reading the whole. We have no objection to reading

the whole testimony, and at the same time we do not wish to impose upon the Senate, the members of which, I assume have read the whole of it, the delay of staying here to hear it, and if my friend the counsel on the other side, consents, we will consider the whole of the testimony taken before the committee on the Third Avenue Savings Bank case, in the case.

The PRESIDENT — The chair supposes it is the intention of the counsel for the State to read the testimony in relation to each case introduced by the State, partly, I suppose, for the purpose of convenience in examining such witnesses as may be introduced by counsel for the State to complete or supplement certain testimony. It will be competent for the counsel to read the testimony introduced by the accused in relation to each case if the counsel shall so desire it.

Mr. CHAPMAN — Mr. President, to that course we have not the slightest objection. If the counsel on the other side will commence and read all the testimony which he desires, we will raise no objection to it, with the privilege on our side of reading the rest. The only thing we object to, is the taking of certain items from this mass of testimony from their setting, if you please, and reading them in that way.

The PRESIDENT — The testimony is all in the case. All the testimony in the book is testimony before the Senate, and there can be no difficulty in disposing of the matter.

Mr. TRACY — I will read in evidence the following :



## THIRD AVENUE SAVINGS BANK, NEW YORK.

[Examined April 14, 1873, by George W. Reid, Wm. F. Aldrich and Isaac H. Vrooman.]

ASSETS.	Rate of interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate	Amount.	
Bonds and mortgages .....	7	.....	....	.....	\$264,100 00
Kansas State bonds .....	7	\$175,000 00	100	\$175,000 00	
Louisiana State bonds (levee) .....	8	100,000 00	100	100,000 00	
Georgia State bonds .....	7	50,000 00	90	45,000 00	
Alabama State bonds .....	8	68,500 00	84	57,540 00	439,365 00
Virginia State bonds and coupons .....	6	3,500 00	45	1,575 00	
Jersey City bonds .....	6	43,000 00	95	40,850 00	
Dry Dock, East Broadway and Battery R. R. bonds .....	7	20,000 00	97	19,400 00	
Ninety-two acres of land at Tarrytown at \$1,500 .....	....	.....	....	\$138,000 00	585,300 00
Lots, Fifth avenue, 85th and 86th streets .....	....	.....	....	85,000 00	
Five houses, East 46th st., \$30,000 each, \$150,000; less mortgage, \$50,200 .....	....	.....	....	99,800 00	
One house, East 47th street, \$42,500; less mortgage, \$8,500 .....	....	.....	....	34,000 00	
36 E. 49th st., \$42,500; less mortgage, \$14,000 .....	....	.....	....	28,500 00	14,980 88
Banking-house .....	....	.....	....	180,000 00	
House and lot adjoining .....	....	.....	....	20,000 00	
Furniture and fixtures .....	....	.....	....	.....	

# THIRD AVENUE SAVINGS BANK — (Continued.)

ASSETS.	Rate of Interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Cash on hand .....	....	....	....	\$4,478 97	\$24,868 49
Cash on deposit in Fifth National Bank.....	....	....	....	2,652 83	
Cash on deposit in National Park Bank.....	....	....	....	131 30	
Cash on deposit in Murray Hill Bank .....	....	....	....	8,366 59	
Cash on deposit in Manuf. and Builders' Bank.....	....	....	....	9,238 80	
Due on mortgage expenses.....	....	....	....	.....	
Guarantee fund (individual bond of trustees).....	....	....	....	.....	
Rents due .....	....	....	....	.....	
Accrued interest.....	....	....	....	.....	
					4,181 78
					100,000 00
					650 00
					32,776 02
					\$1,466,222 17
LIABILITIES.					
Due depositors .....	....	....	....	1,445,337 51	1,471,957 18
Mortgage .....	....	....	....	1,992 00	
Ground rent .....	....	....	....	2,848 00	
Internal revenue .....	....	....	....	759 67	
Accrued interest.....	....	....	....	21,000 00	
Deficiency of assets.....	....	....	....	.....	\$5,735 01

THIRD AVENUE SAVINGS BANK — (Continued).  
Annual income and charges thereon.

559

INVESTMENTS, ETC.	Rate of interest.	Amount at par.	Revenue.	Totals.
INCOME.				
Bonds and mortgages .....	7	\$264,100 00	\$18,487 00	
Kansas State bonds .....	7	175,000 00	12,250 00	
Louisiana State bonds .....	8	100,000 00	8,000 00	
Georgia State bonds .....	7	50,000 00	3,500 00	
Alabama State bonds .....	8	68,500 00	5,480 00	
Virginia State bonds (interest suspended) .....			.....	
Jersey City bonds .....	7	43,000 00	3,010 00	
Dry Dock, East Broadway and Battery R. R. bonds .....	7	20,000 00	1,400 00	
Guarantee fund .....	7	100,000 00	7,000 00	
Guarantee bonds on Tarrytown land .....	7	138,000 00	9,660 00	
Cash in bank .....	4 to 7	20,000 00	1,000 00	
Rents .....	....	.....	27,460 00	\$97,247 00
CHARGES.				
Interest to depositors .....			\$78,000 00	
Salaries .....			7,300 00	
Internal revenue .....			300 00	
Taxes .....			5,400 00	
Other expenses (estimated) .....			2,500 00	93,500 00
Excess of income .....	....	.....	.....	\$3,747 00

Mr. Chapman produces the original report of the examination of April 14, 1873, which is shown the witness.

By Mr. CHAPMAN:

Q. That was all the report that you sent to him at that time? A. Yes, sir.

By Mr. OLMSTEAD:

Q. Was all this paper sent to Mr. Ellis? A. Yes, sir.

The original report is read in evidence, and is as follows:

BANK DEPARTMENT,  
ALBANY, April 3, 1873. }

Pursuant to the authority conferred, and the duty imposed upon the Superintendent of the Banking Department, by chapter 693, Laws of 1871, I do hereby appoint George W. Reid, Isaac H. Vrooman, and W. F. Aldrich, to examine into the condition, working, and affairs generally of the Third Avenue Savings Bank, New York, and report therein to me in detail, as soon as practicable.

Given under my hand and official seal, at Albany, the day and year first above written.

D. C. ELLIS,  
*Superintendent.*

Hon. D. C. ELLIS, *Superintendent Bank Department:*

SIR.—The undersigned, appointed to examine the condition, working, etc., of the Third Avenue Savings Bank of New York, report that difficulties have existed for some time among the trustees of this bank, and statements as to its solvency having been repeatedly published in a daily paper, a *run* commenced upon the institution early in January, 1872, which did not cease until, after forty-five days, \$4,500,000 had been drawn out. The courage and perseverance with which the trustees stood up under this pressure and met all demands, and the refusal of the Supreme Court to appoint a receiver, appears to have convinced the remaining depositors that their funds were safe, and since that time the deposits have been steadily increasing.

A large number of the old board of trustees having resigned, the vacancies were filled by gentlemen of wealth and character, who appear determined to sustain the institution, and there is every reason to hope that it will be successful. Their personal obligation for the deficiency of last year is already on file with the department, and they have also agreed to pay to the bank a sufficient amount to cover interest on the unproductive real estate at Tarrytown, and no doubt will make good the small deficiency that now appears in the assets.

The estimate of receipts over expenditures this year is \$3,747.

Your examiners have reason to believe, from diligent inquiry and personal examination, that that portion of the real estate at Tarrytown is worth full as much as the officers have estimated it in the assets.

The item of \$4,181.78 in the assets is balance of expenses in the transfer of mortgages to other parties at the request of the mortgagors, and will no doubt all be collected.

Respectfully submitted

GEO. W. REID,  
W. F. ALDRICH,  
J. H. VROOMAN.

Since our examination, the troubles in Louisiana have rendered their State bonds unsalable, and if continued, may cause a heavy loss to the bank.

GEO. W. REID.

*May 17, 1873.*

*Assets and liabilities of the Third Avenue Savings Bank of New York, upon the 14th day of April, 1873, as found upon examination made by the direction and authority of the Superintendent of the Bank Department.*

562

	Rate of interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Bonds and mortgages					
Kansas State bonds	7	.....	....	\$264,100 00	
Louisiana State bonds (levee)	7	\$175,000 00	100	175,000 00	
Georgia State bonds	8	100,000 00	100	100,000 00	
Alabama State bonds	7	50,000 00	90	45,000 00	
Virginia State bonds	8	68,500 00	84	57,540 00	
Jersey City bonds	6	3,500 00	45	1,575 00	
Dry Dock, East Broadway and Battery R. R. bonds	6	43,000 00	95	40,850 00	
	7	20,000 00	97	19,400 00	
Ninety-two acres land at Tarrytown, \$1,500		138,000 00	....	.....	\$439,365 00
Lots, Fifth Avenue, 85th & 86th streets		85,000 00	....	.....	
Five houses East 46th St. \$30,000 ea., \$150,000; less mortgage \$500.00			....	.....	
One house East 47th street, \$42,500, less mortgage \$8,500		99,800 00	....	.....	
36 East 49th st., \$42,500, less mortgage \$14,000		34,000 00	....	.....	
Banking house		28,500 00	....	.....	
House and lot adjoining		180,000 00	....	.....	
		20,000 00	....	.....	
Furniture and fixtures		.....	....	\$585,300 00	
Cash on hand		4,478 97	....	14,980 88	
Cash Fifth Nat. Bank		2,652 83	....	.....	

Cash Nat. Park Bank.....	131 30	.....	.....	.....	.....
Cash Murray Hill Bank.....	8,366 59	.....	.....	.....	.....
Cash Manuf. and Builders' Bank.....	9,238 80	.....	.....	.....	.....
Due on mortgage expenses.....	.....	.....	.....	24,868 49	.....
Guarantee fund.....	.....	.....	.....	4,181 78	.....
Rents due.....	.....	.....	.....	100,000 00	.....
Accrued interest.....	.....	.....	.....	650 00	.....
	.....	.....	.....	32,776 02	.....
					1,466,222 17
Deficiency.....	.....	.....	.....	.....	5,735 01
Due depositors.....	.....	.....	.....	\$1,445,337 51	.....
Mortgage.....	.....	.....	.....	1,992 00	.....
Ground rent.....	.....	.....	.....	2,848 00	.....
Internal revenue.....	.....	.....	.....	779 67	.....
Accrued interest.....	.....	.....	.....	21,000 00	.....
					\$1,471,957 81

*Annual income from the investments of the Third Avenue Savings Bank, as they were found upon examination made on the 14th day of April, 1873, and the annual charges thereon at current rates, or estimated on the basis of 1872.*

INVESTMENTS.		Rate of interest.	Amount at par.	Revenue.	Total.
Bonds and mortgages.....		7	\$264, 100 00	\$18, 487 00	
Kansas State.....		7	175, 000 00	12, 250 00	
Louisiana.....		8	100, 000 00	8, 000 00	
Georgia.....		7	50, 000 00	3, 500 00	
Alabama.....		8	68, 500 00	5, 480 00	
Virginia, interest suspended.....		.....	.....	.....	
Jersey City.....		7	43, 000 00	3, 010 00	
Dry Dock, East Broadway and Battery R. R. bonds.....		7	20, 000 00	1, 400 00	
Guarantee fund.....		7	100, 000 00	7, 000 00	
Guarantee bonds on Tarrytown land.....		7	138, 000 00	9, 660 00	
Cash in bank.....		4 to 7	20, 000 00	1, 000 00	
Rents.....		.....	.....	27, 460 00	\$97, 247 00
Interest to depositors.....		.....	.....	\$78, 000 00	
Salaries.....		.....	.....	7, 300 00	
Internal revenue.....		.....	.....	300 00	
Taxes.....		.....	.....	5, 400 00	
Sundries estimated.....		.....	.....	2, 500 00	93, 500 00
Surplus each year.....		.....	.....	.....	\$3, 747 00



*Sundry items of assets or liabilities, also other statistics of the Third Avenue Savings Bank, as found upon examination made April 14, 1873 :*

Real estate owned, banking-house.

Location, Third avenue and Twenty-sixth street.

Dimensions of ground, 26' 6''x84'  
20' 6''x98' 9"

Dimensions of building, covers whole lot.

Cost of ground, \$——.

Building .....	\$180,000 00
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Estimated market value of real estate .....	180,000 00
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Amount of cash on hand .....	24,868 49
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In vault (to be verified by examiner's account).....	4,478 97
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In banks or trust companies (to be verified by certificates of bank officers), viz.:

First National Bank.....	2,652 83
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National Park Bank.....	131 30
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Murray Hill Bank .....	8,366 59
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Manufacturers and Builders' Bank .....	9,238 80
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Estimate or approximate calculation of interest accrued or due and unpaid on investments at this date, viz.:

On bonds and mortgages.....	15,076 89
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On stocks .....	12,711 25
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On call loans .....	None.
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Guarantee bonds 100 M.....	3,022 22
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On deposit in bank.....	175 00
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Guarantee of Tarrytown income.....	2,790 66
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What amount of the above is more than three months overdue .....	32,776 02
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Rent due and collectible, or accrued to date.....	650 00
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Any other properties constituting assets, viz.:

Guarantee fund, secured by bonds bearing seven per cent interest.....	100,000 00
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Annual rental of real estate owned or leased, at cur- rent rates.....	27,460 00
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Rate of interest on call loans.....	None.
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Rate of interest on deposits in bank, etc., four to seven per cent:

Interest credited January 1, 1872. ....	142,344 45
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Deposits that date.....	4,938,980 72
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Interest credited July 1, 1872 .....	37,375 87
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Deposits that date.....	1,321,355 82
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Interest credited January 1, 1873 .....	39,169 98
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Deposits that date.....	\$1,396,661 90
Amount due depositors this date .....	1,445,337 51
Estimate of interest accrued this date.....	21,000 00

Any other debts or liabilities due or accrued this date, viz.:

On mortgage due by bank.....	1,992 00
Ground rents due by bank .....	2,848 00
Interest received.....	779 67

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*Miscellaneous facts relating to the condition and conduct of business of the Third Avenue Savings Bank, in the city of New York, as found upon examination made by direction of the superintendent of the Bank Department, 14th April, 1873 :*

#### ORGANIZATION.

Charter number of trustees.....	22
Number of vacancies.....	2
Number constituting quorum... ..	8

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Officers elected or appointed from trustees—President, first and second vice-presidents, secretary, surveyor and counsel. None receiving salary except secretary.

Officers, clerks and other employees not members of the board—Actuary, teller, two book-keepers and janitor.

Standing or regular committees of the board, their powers and duties :

1. Finance—General supervision over the moneys of the bank, make investments and loans under the direction of the board of trustees.

2. Attending—Attend at the bank and make examinations from time to time and report to the board.

3. Nominate—Consider all propositions for new trustees, and report.

#### EXPENDITURES.

Salaries, current rate, viz.: Secretary, \$2,000; actuary, \$1,800; teller, \$1,800; book-keeper, \$400; book-keeper, \$400; janitor, \$900 .....	\$7,300 00
Other expenses, basis 1872: Rent, none.	
Internal revenue tax, 1873 .....	779 67
Other taxes.....	3,400 00
Furniture, fixtures and repairs, legal expenses, printing and	

advertising, stationery and blank-books, fuel, lights and  
attendance, other expenses ..... \$2,500 00

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### CONDUCT OF BUSINESS.

Regular meetings of the board, first Saturday after the first Monday in each month.

Average attendance 1872, ten.

Attendance of officers during business hours, president and secretary (all day).

Attendance of trustees, moderate.

Application for loans on bond and mortgage, how made ; informal application, to whom referred ? Finance committee.

Report on value of property, by whom made ? Surveyor.

To whom ? Finance committee.

In what form ? Certificate.

Are applications for loans on bond and mortgage filed or otherwise preserved ? Filed by attorney.

Ditto of reports concerning value of property ? In book form at the bank.

Action by vote or otherwise — by whom necessary before money is advanced on bond and mortgage ? Finance committee, under approval of board.

Ditto of stock investments ? Ditto.

Ditto of call loans ? Ditto.

Ditto of deposits in bank ? Board of trustees' authority.

How or by whom are the companies designated, in which insurance, as security for loans on bond and mortgage, is effected ? In judgment of officers.

Is the opinion of your counsel ever taken concerning the legality of investments, otherwise than on bond and mortgage ? When necessary.

Opinion in writing or oral ? Oral.

At what period does interest on deposits commence ? January, April, July and October.

During what time must a deposit remain to be entitled to interest ? Until dividend day, viz. , January and July.

By what form of action is the rate fixed or declared ? By special resolution of board of trustees.

Is interest declared or fixed or promised in advance, or only at expiration of interest period ? Declared at the end of interest period.

Is it based upon the ascertained profits or earnings of the interest period for which it is declared, after deducting expenses therefrom, or is it fixed arbitrarily ? From profits, after deducting expenses.

Who is the responsible officer in charge of the conduct of business during business hours? President and secretary.

Hours during which bank is open? Ten A. M. to 3 P. M., daily; Monday, Wednesday and Saturday evenings, 6 to 8 o'clock.

Who receive and pay money over the counters? Teller and assistants.

What memoranda or entries, made by the receiving-teller, of transactions? Deposit ticket first entered in a blotter (when the money is recounted), and often in the deposit book.

What ditto by paying teller? Receipts taken for all payments, and afterward entered in draftbook.

Who revises and compares these with cash at close of business? Book-keepers enter tickets which must agree with cash of tellers.

How often revised and checked and compared by any other officer or committee? Revised by officers during the day.

In whose custody, or accessible to whom, are the securities of the bank kept? President, secretary and actuary.

How often and by whom examined? By attending committee, at various times.

How is their correctness verified? By stock register and general ledger account.

At these examinations is the cash actually counted? *Yes.*

How is amount of cash deposited in bank ascertained by them? By certificates from banks.

Reports and statements of total cash received and disbursed made by whom? Secretary and actuary.

To whom? Board of trustees. How often? Monthly.

In what form? Statements. How and by whom verified? Examined by board.

Ditto of assets and liabilities? By officers.

Bonds of officers, etc., viz.: Secretary, \$10,000; actuary, \$5,000; teller, \$5,000; two book-keepers, \$5,000 ea.; janitor, \$1,000.

In whose custody? President's.

Number of open accounts? April first, 1873, 8,673; 14th, 8,633.

Largest single? Five thousand dollars. Number exceeding \$5,000? None over \$5,000.

Average one thousand six hundred and seventy-four.

Are depositors allowed to draw checks upon their account? In two or three instances when the pass-book is with the bank.

By whom must the checks of the institution be signed? President and secretary.

Has any officer or trustee, to your knowledge or according to your belief ever received any commission or part of commission, or any bonus from any person, on any loan on bond and mortgage, or on the purchase or sale of any stocks or bonds by this institution? No.

*Report of the Third Avenue Savings Bank, an incorporated institution for savings, of its condition on the first day of July, 1873, made to the Superintendent of the Banking Department, as required by chapter 163 of the laws of 1857 :*

#### RESOURCES.

1. Bonds and mortgages, as per schedule A, hereto annexed.....	\$274,100 00
2. Stock investments, as per Schedule B, hereto annexed, cost.....	397,361 87
3. Real estate, banking buildings, covering two lots, Third Avenue and Twenty-sixth street, cost,	166,651 96
4. Real estate, nine (9) houses and lots New York city, cost and market value, interest paying,	275,000 00
5. Real estate, at Tarrytown, Westchester county, N. Y., cost seven per cent, interest guaranteed,	138,000 00
6. Individual bonds bearing seven per cent interest,	100,000 00
7. Furniture and fixtures.....	15,033 63
8. Cash on deposit in banks or trust companies, as per Schedule F, hereto annexed.....	36,997 82
9. Cash on hand not deposited in bank.....	21,042 91
10. Amount of assets not included under either of the above heads, the particular items of which are set forth in Schedule G, hereto annexed,	88,441 78
	<hr/>
	\$1,512,629 96
	<hr/>

#### LIABILITIES.

1. Amount due depositors:	
Principal.....	\$1,465,041 97
Interest credited for the 1st	
of July, 1873.....	40,376 61
	<hr/>
	\$1,505,418 58
3. Excess of assets over liabilities .....	7,211 38
	<hr/>
	\$1,512,629 96
	<hr/>

STATE OF NEW YORK, }  
COUNTY OF NEW YORK, } ss.:

Thompson W Decker, president, and David Morgan, secretary, of the Third Avenue Savings Bank, an incorporated institution for savings located and doing business at Third avenue, corner Twenty-sixth street, in the city of New York, being duly and severally sworn, each for himself, saith that the foregoing report and the schedules accompanying the same are, in all respects, a true statement of the

condition of the said institution before the transaction of any business on the morning of the first day of July, one thousand eight hundred and seventy-three, in respect to each and every of the items and particulars above specified, according to the best of his knowledge and belief.

T. W. DECKER, *President.*

DAVID MORGAN, *Secretary.*

Severally subscribed and sworn by both }  
deponents the 22d day of July, 1873, }  
before me,

HENRY C. WEEKS,

*Notary Public (50), New York County.*

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*Report of the Third Avenue Savings Bank, an incorporated institution for savings, of its condition on the 1st day of January, 1874, made to the Superintendent of the Banking Department, as required by chapter 136, of the Laws of 1857.*

## FINANCIAL.

### RESOURCES.

1. Bonds and mortgages, as per Schedule A, hereto annexed .....	\$272,400 00
2. Stock investments, as per Schedule B, hereto annexed .....	397,361 87
3. Real estate, bank buildings covering two (2) lots, Third avenue and Twenty-sixth street, cost,	166,651 95
Real estate, nine (9) houses and lots, New York city, cost, market value, interest paying.....	275,000 00
Real estate at Tarrytown, Westchester county, N. Y., cost and market value .....	138,000 00
4. Individual bonds of trustees, bearing seven (7) per cent interest.....	115,000 00
5. Furniture and fixtures .....	15,033 63
6. Cash on deposit in banks or trust companies, as per Schedule F, hereto annexed.....	21,886 75
7. Cash on hand not deposited in bank.....	28,987 72
8. Amount of assets not included under either of the above heads, the particular items of which are set forth in Schedule G, hereto annexed..	96,120 49
Total .....	<hr/> \$1,526,442 41 <hr/>

## LIABILITIES.

1. Amount due depositors, viz.:		
Principal.....	\$1,430,610 66	
Interest credited for the 1st of January, 1874 .....	42,129 39	
	<hr/>	\$1,472,740 05
2. Other liabilities, viz.:		
Demand loan on bonds .....	46,000 00	
Internal revenue tax.....	728 69	
3. Excess of assets over liabilities .....	6,973 67	
	<hr/>	
Total.....	\$1,526,442 41	
	<hr/>	

## STATISTICAL.

1. Number of open accounts on the morning of January 1st, 1874 .....	8,301
2. Number of accounts opened during the year 1873,	1,731
3. Number of accounts closed during the year 1873,	2,124
4. Number of accounts opened since organization..	59,703
5. Amount deposited not including interest credited during 1873 .....	\$789,413 21
6. Amount deposited, including interest credited, for the same period.....	868,959 80
7. Amount withdrawn during the year 1873 .....	835,011 04
8. Amount of interest or profits earned during the year 1873 .....	114,468 78
9. Amount of interest credited to depositors for the same period .....	79,546 59
10. Amount of each semi-annual credit of interest for the year 1873, and when credited: January 1, 1873, \$39,169,98; July 1, 1873, \$40,376,61; credited at other periods during the year....	None.
11. Rate per cent of dividends or interest to depos- itors during the past year six (6) per cent on sums up to \$5,000, five (5) per cent on sums above.	

STATE OF NEW YORK, }  
COUNTY OF NEW YORK, } ss.:

Thompson W. Decker, president, and David Morgan, secretary of the Third Avenue Savings Bank, an incorporated institution for savings, located and doing business at Third avenue, corner of Twenty-sixth street, in the city of New York, being duly and severally sworn each for himself saith that the foregoing report and the schedules accompanying the same are, in all respects, a true statement of the condition of said institution before the transaction of any business on

the morning of the 1st day of January, 1874, in respect to each and every of the items and particulars therein specified, according to the best of his knowledge and belief.

T. W. DECKER, *President.*

DAVID MORGAN, *Secretary.*

Severally suscribed and sworn by both }  
deponents the 26th day of January, }  
1874, before me, }

HENRY C. WEEKS, *Notary Public (50), New York County.*

*Report of the Third Avenue Savings Bank, an incorporated institution for savings, of its condition on the 1st day of July, 1874, made to the Superintendent of the Banking Department, as required by chapter 136 of the Laws of 1857.*

#### RESOURCES.

1. Bonds and mortgages, as per Schedule A, hereto annexed .....	\$272,400 00
2. Stock investments, as per Schedule B, hereto annexed .....	369,964 87
3. Real estate, bank building covering two (2) lots, Third avenue and Twenty-sixth street, cost....	166,651 95
Real estate, nine (9) houses and lots, New York city, cost and market value, estimated interest paying,	275,000 00
Real estate, 92 acres of land, Tarrytown, West- chester county, N. Y., cost.....	138,000 00
4. Individual bonds of trustees bearing 7 per cent in- terest.....	115,000 00
5. Furniture and fixtures .....	15,033 63
6. Cash on deposit in banks or trust companies, as per Schedule F, hereto annexed .....	39,243 92
7. Cash on hand not deposited in bank .....	20,707 25
8. Amount of assets not included under either of the above heads, the particular items of which are set forth in Schedule G, hereto annexed.....	128,170 45
	<hr/>
	\$1,540,172 07
	<hr/>

#### LIABILITIES.

1. Amount due depositors:	
Principal .....	\$1,436,819 48
Interest credited for the 1st of July, 1874 .....	40,472 18
	<hr/>
	\$1,477,291 66



## 2. Other liabilities, viz.:

Demand loan on bonds .....	\$45,000 00
Internal revenue tax.....	649 36

3. Excess of assets over liabilities ..... 17,231 05

\$1,540,172 07

STATE OF NEW YORK, }  
COUNTY OF NEW YORK, } ss. :

I, Daniel Bates, vice-president, and David Morgan, secretary of the Third Avenue Savings Bank, an incorporated institution for savings, located and doing business at No. 354 Third avenue, corner Twenty-sixth street, in New York, being duly and severally sworn, each for himself saith, that the foregoing report and the schedule accompanying the same are, in all respects, a true statement of the condition of the said institution before the transaction of any business on the morning of the 1st day of July, 1874, in respect to each and every of the items and particulars above specified, according to the best of his knowledge and belief.

DANIEL BATES, *Vice-President.*

DAVID MORGAN, *Secretary.*

Severally subscribed and sworn by both }  
deponents the 24th day of July, 1874, }  
before me,

LUTHER WISE,

*Commissioner of Deeds in and for New York Co.*

*Report of the Third Avenue Savings Bank, an incorporated institution for savings, of its condition on the 1st day of January, 1875, made to the Superintendent of the Banking Department as required by chapter 136 of the Laws of 1857.*

## RESOURCES.

- |   |              |
|---|--------------|
| 1. Bonds and mortgages, as per Schedule A, hereto annexed .....                                     | \$269,850 00 |
| 2. Stock investments, as per Schedule B, hereto annexed .....                                       | 361,214 87   |
| 3. Real estate, bank buildings, covering two lots, Third avenue and Twenty-sixth street, cost ..... | 171,948 65   |
| Real estate, nine houses and lots, New York city, cost and market value .....                       | 288,618 51   |
| Real estate, 92 acres of land at Tarrytown, Westchester county, New York, cost.....                 | 138,000 00   |
| 4. Individual bonds of trustees, bearing seven per cent   |              |



during the past year, six per cent from one dollar to \$5,000; five per cent above \$5,000.

STATE OF NEW YORK, }  
County of New York, } ss. :

John H. Lyon, president, and William S. Carman, secretary of the Third Avenue Savings Bank, an incorporated institution for savings, located and doing business at Third avenue, corner Twenty-sixth street, in the city of New York, being duly and severally sworn, each for himself, saith, that the foregoing report and the schedules accompanying the same are, in all respects, a true statement of the condition of said institution before the transaction of any business on the morning of the first day of January, one thousand eight hundred and seventy-five, in respect to each and every of the items and particulars therein specified, according to the best of his knowledge and belief.

JOHN H. LYON, *President.*

W. S. CARMAN, *Secretary.*

Severally subscribed and sworn by both }  
deponents, the 23d day of January, }  
1875, before me,

GEORGE HILL,

*Commissioner of Deeds.*

# THIRD AVENUE SAVINGS BANK, NEW YORK CITY.

[Examined March 22 and 23, 1867, by George W. Reid and Wm. F. Altrich.]

ASSETS.	Rate of interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Bonds and mortgages.....	7	.....	.....	.....	\$264,900 00
Kansas State bonds.....	7	\$25,000 00	100	\$25,000 00	
Georgia State bonds.....	7	50,000 00	95	47,500 00	
Louisiana State bonds (levee).....	8	100,000 00	27	27,000 00	
Alabama State bonds.....	8	68,500 00	42	28,770 00	
Tennessee State bonds (funding).....	6	55,000 00	48	26,400 00	
Virginia State bonds.....	6	2,000 00	32	640 00	
Jersey City bonds.....	6	43,000 00	95	40,850 00	
Dry Dock, East Br'dway & Battery R. R. bonds	7	10,000 00	100	10,000 00	
Ninety-two acres of land at Tarrytown, \$1,500	.....	.....	.....	\$138,000 00	206,160 00
Five houses East 46th st. (\$30,000), \$150,000 ; less mortgage, \$42,500.....	.....	.....	.....	107,500 00	
House, Fifth avenue and 85th street.....	.....	.....	.....	85,000 00	
House, East 47th st., \$42,500 ; less mortgage, \$8,500.....	.....	.....	.....	34,000 00	
House, 36 E. 49th st., \$42,500 ; less mortgage, \$14,000.....	.....	.....	.....	28,500 00	
Banking-house, Third av. and 26th street.....	.....	.....	.....	180,000 00	
House and lot adjoining.....	.....	.....	.....	20,000 00	
					593,000 00

## THIRD AVENUE SAVINGS BANK — (Continued).

ASSETS.	Rate of interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Furniture and fixtures .....	.....	.....	.....	.....	\$15,000 00
Due from former counsel for bond and mortgage collected .....	.....	.....	.....	.....	2,000 00
Cash in vault .....	.....	.....	.....	.....	
Cash in Fifth National Bank .....	4	.....	.....	\$3,520 51	
Cash in Murray Hill Bank .....	4	.....	.....	1,885 57	
		.....	.....	2,000 00	
Guaranteed fund (individual bond of trustees)	.....	.....	.....	.....	7,406 08
Interest accrued .....	.....	.....	.....	.....	115,000 00
Deficiency of assets .....	.....	.....	.....	.....	20,420 00
		.....	.....	.....	219,226 81
LIABILITIES.					
Due depositors .....	.....	.....	.....	\$1,414,892 89	\$1,443,112 89
Interest accrued .....	.....	.....	.....	18,000 00	
Due Fifth National Bank .....	.....	.....	.....	8,000 00	
Ground rent and interest on mortgage .....	.....	.....	.....	2,220 00	
		.....	.....	.....	1,443,112 89

## ANNUAL INCOME AND CHARGES THEREON.

INVESTMENTS, ETC.	Rate of interest	Amount at par.	Revenue.	Total.
INCOME.				
Bonds and mortgages.....	7	\$266,900 00	\$18,683 00	
State bonds .....	7	75,000 00	5,250 00	
Jersey City bonds.....	6	43,000 00	2,580 00	
City railroad bonds.....	7	10,000 09	700 00	
Cash in bank .....	4	4,000 00	160 00	
Rents.....		.....	22,720 00	\$50,093 00
CHARGES.				
Interest to depositors.....		.....	\$82,000 00	
Salaries.....		.....	4,340 00	
Internal revenue tax.....		.....	1,300 00	
Other taxes.....		.....	6,244 00	
All other charges.....		.....	1,000 00	
Deficiency of income .....		.....		94,884 00
		.....	.....	\$44,791 00

After estimating the assets at their full market value, there is a deficiency of \$219,000 besides the trustees' guarantee bond of \$115,000 held by the department. The annual deficiency of income is nearly \$45,000, accounted for, in part, by the large amount of State bonds on which the interest has been suspended, and the small income from the real estate.

The original report of the examination is produced by Mr. Chapman.

Q. Please look at the paper now shown you, and state if it is the original of the report that you made on that examination [handing witness the paper] ? A. Yes, sir.

The following is a copy of the written report :

BANK DEPARTMENT,  
STATE OF NEW YORK. }

Pursuant to the authority conferred and the duty imposed upon the Superintendent of the Banking Department by chapter 693 of the Laws of 1871, I do hereby appoint George W. Reid and William F. Aldrich to examine into the condition, working and affairs generally of the Third Avenue Savings Bank, New York city, and report thereon to me in detail, as soon as practicable.

Given under my hand and official seal at Albany, this 15th day of March, 1875.

D. C. ELLIS,  
*Superintendent.*

Hon. D. C. ELLIS, *Superintendent Bank Department :*

SIR — The undersigned, appointed to examine into the condition, working, etc., of the Third Avenue Savings Bank, report :

It will be seen from the schedules annexed that after estimating the assets at full market value there is a deficiency of \$219,000 besides the trustees' guarantee bonds of \$115,000, held by the department.

The annual deficiency of income is nearly \$45,000, accounted for in part by the large amount of State bonds on which the interest has been suspended, and the small income from the real estate.

Respectfully submitted.

GEO. W. REID.  
W. F. ALDRICH.

Examined March 22 and 23 by G. W. Reid and W. F. Aldrich.

## STATEMENT.

THIRD AVENUE.	Rate of interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Bonds and mortgages.....	7	.....	....	.....	\$264,900 00
Kansas State bonds.....	7	\$25,000	100	\$25,000 00	
Georgia State bonds.....	7	50,000	95	47,500 00	
Louisiana State bonds (levee).....	8	100,000	27	27,000 00	
Alabama State bonds.....	8	68,500	42	28,770 00	
Tennessee State bonds (funding).....	6	55,000	48	26,400 00	
Virginia State bonds.....	6	2,000	32	640 00	
Jersey City bonds.....	6	43,000	95	40,850 00	
Dry Dock, East Broadway and Battery R. R. bonds.....	7	10,000	100	10,000 00	206,160 00
Ninety-two acres land at Tarrytown, \$1,500.....	....	.....	....	\$138,000 00	
Five houses East 46th st. (\$30,000), \$150,000; less mortgage, \$42,500.....	....	.....	....	107,500 00	
House Fifth avenue and 85th street.....	....	.....	....	85,000 00	
House East 47th street, \$42,500, less mortgage, \$8,500.....	....	.....	....	34,000 00	
House 36 East 49th st., \$42,500, less mortgage, \$14,000.....	....	.....	....	28,500 00	
Banking house, Third avenue and 26th street.....	....	.....	....	180,000 00	
House and lot adjoining.....	....	.....	....	20,000 00	593,000 00
Furniture and fixtures.....	....	.....	....	.....	15,000 00
Due from former counsel for bond and mortgage col'd.....	....	.....	....	.....	2,000 00
Cash in vault.....	....	.....	....	\$3,520 51	



## STATEMENT — (Continued.)

THIRD AVENUE.	Rate of Interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Cash in Fifth National Bank .....	4	.....	....	\$1,885 57	\$7,406 08
Cash in Murray Hill Bank .....	4	.....	....	2,000 00	115,000 00
Guarantee fund (individual bond of trustees) .....	....	.....	....	.....	20,420 00
Interest accrued .....	....	.....	....	.....	219,226 81
Deficiency of assets .....	....	.....	....	.....	\$1,443,112 89
Due depositors .....	....	.....	....	\$1,414,892 89	
Interest accrued .....	....	.....	....	18,000 00	
Due Fifth National Bank .....	....	.....	....	8,000 00	
Ground rent and interest on mortgage .....	....	.....	....	2,220 00	1,443,112 89

# STATEMENT — (Continued.)

INVESTMENTS.		Rate of interest.	Amount at par.	Revenue.	Totals.
INCOME.					
Bonds and mortgages.....		7	\$266,900 00	\$18,683 00	
State bonds .....		7	75,000 00	5,250 00	
Jersey City bonds.....		6	43,000 00	2,580 00	
City railroad bonds.....		7	10,000 00	700 00	
Cash in bank.....		4	4,000 00	160 00	
Rents.....			.....	22,720 00	\$50,093 00
CHARGES.					
Interest to depositors .....			.....	\$82,000 00	
Salaries.....			.....	4,340 00	
Internal revenue tax.....			.....	1,300 00	
Other taxes.....			.....	6,244 00	
All other charges.....			.....	1,000 00	94,884 00
Deficiency of income.....			.....	.....	\$44,791 00

NEW YORK, *March 24, 1875.*

Hon. D. C. ELLIS, *Superintendent* :

DEAR SIR.—Inclosed I hand you report in Third Avenue Savings Bank. There is \$13,000 due from trustees for interest on their bonds ; only a few of them having paid any thing the past year. Mr. Lacy, who was on the bond for \$2,500, is dead, and his executors will contest the payment of the amount. Andrew Stevens (\$10,000) has failed and James Stevens (\$10,000), it is supposed has “softening of the brain,” and from present appearances very little will be collected on the bond.

The house on Fifth avenue, \$85,000, has not been rented for two years past.

The trustees have sold \$150,000 Kansas at par, but have not shown much financial capacity in their recent purchase of \$55,000 Tennessee bonds at 51. The January report was “made up” for the occasion, all the stocks or bonds being put in at par ; over \$20,000 past due coupons counted in as accrued interest ; \$31,000 added to the value of the Tarrytown property, etc., etc.

All the “ability and pluck” shown three years ago during the “run” has apparently disappeared, and the old adage of “rats leaving a sinking ship” is being verified in the resignation of a number of trustees during the past year. I do not think the depositors will receive more than fifty cents on a dollar.

Yours truly,

GEORGE W. REID.

The examination of the bank made by the department in 1875, showed conclusively that the interest of the depositors required the bank to discontinue business, and on my recommendation the Attorney-General commenced an action and placed the institution in the hands of a receiver. Whether it would have been better had a receiver been appointed in 1871 instead of 1875, is a question mostly speculative.

“At a meeting of the board of trustees of the Third Avenue Savings Bank, held at the banking-house on Tuesday, September 28, 1875, at 7½ P. M., were present — Daniel Bates, president ; Messrs. Brums, Moulton, Seiter, B. A. Lyon, Hartt, Peeg, Ford and Harrison.

On motion of Mr. Brums, and seconded by Mr. Ford, the following resolution was unanimously adopted :

WHEREAS, The recent pecuniary embarassment of this bank, arising from the long-continued stagnation of business, and the consequent continued depreciation in the value of the securities and real estate held by the bank, render it evident that the bank cannot safely continue business or offer a reasonable security to those who deal with it therefore,

*Resolved*, That it is expedient that the bank be dissolved, and its business affairs wound up.

*Resolved*, That the officers of the bank be authorized to take the advice of the Bank Superintendent upon the best mode of effecting such dissolution, and that they be empowered to take all such steps in the matters as they may find for the best interest of the bank and its depositors.

*Resolved*, That any new moneys hereafter received on deposit be kept separate and in trust for those making such deposits.

W. S. CARMAN, *Secretary*."

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Judgment roll marked Plaintiff's Exhibit No. 7, May 18, 1877,  
S. B. H.

### PLAINTIFF'S EXHIBIT No. 7.

#### SUPREME COURT — ALBANY COUNTY.

THE PEOPLE OF THE STATE OF NEW YORK *against* THE THIRD  
AVENUE SAVINGS BANK.

*To the defendant above named :*

You will please take notice that on the annexed papers this court will be moved, at a Special Term thereof, to be held at the City Hall in the city of Albany on the 29th day of September, 1875, at ten o'clock in the forenoon, that the Third Avenue Savings Bank, the defendant above named, its officers and agents be restrained and enjoined from exercising any of its corporate rights, franchises or privileges and from collecting or receiving any debts or demands and from paying out or in any manner transferring or delivering to any person any of the moneys, property or assets of the said corporation and that a receiver of the property and effects of said corporation be appointed pursuant to the provisions of the Revised Statutes and laws of this State with all the power and authority conferred upon receivers in such cases and that said plaintiff have such other or further relief in the premises as may be proper with costs of this motion.

Yours, etc. ,

DANIEL PRATT, *Attorney-General*,

*Plaintiff's Attorney, Albany, N. Y.*

At a Special Term of the Supreme Court of the State of New York held at the City Hall in the city of Albany, on the 29th day of September, 1875.

Present — Hon. A. MELVIN OSBORNE, *Justice*.

THE PEOPLE OF THE STATE OF NEW YORK *against* THE THIRD  
AVENUE SAVINGS BANK.

On reading and filing the summons and complaint, report of Hon. De Witt C. Ellis and the affidavit of Daniel Bates, and a notice of this motion; after hearing Charles S. Fairchild, Deputy Attorney-General, on behalf of the plaintiff above named, and John T. Hoffman on behalf of the above-named defendant, and after due deliberation thereupon had, it is.

Ordered, That William S. Carman, of the city of New York, be and he heroby is appointed receiver of all the corporate property, assets and effects held by it.

It is further ordered that such receiver, before entering upon the duties of his office, execute a bond, to be signed by himself and sufficient sureties, to be approved, after notice of application therefor to the Attorney-General, by a justice of the Supreme Court, as to its form and sufficiency, and manner of execution, in the penal sum of \$400,000, said bond to be given to the People of the State of New York and to be filed in the Albany county clerk's office.

It is further ordered that said receiver have and enjoy all the powers and duties conferred upon such receivers by the Revised Statutes of the State of New York, and the laws thereof; that all moneys received by him and all the securites and obligations now held by said defendant, The Third Avenue Savings Bank, excepting the sum of \$10,000, to be retained by said receiver for the payment of necessary and incidental disbursements, be deposited with the United States Trust Company, of the city of New York, to be held by said last-named corporation, subject to the further order of this court, and to the credit of the defendant in this action, said money and securities so deposited as aforesaid with said United States Trust Company not to be delivered over by it, except subject to and in pursuance of the order of this court.

It is further ordered that said corporation, The Third Avenue Savings Bank, its officers and agents be restrained and enjoined from exercising any of its corporate rights, privileges or franchises and from collecting or receiving any debts or demands, and from paying out or in any manner transferring or delivering to any person other than the receiver above named any of the moneys, property or effects of the said defendant above named.

A. M. OSBORN,

*Justice Supreme Court.*

WM. E. HASWELL, *Clerk.*

Indorsed: Recorded in Albany county clerk's office, September 29, 1875, 4.15 P. M., in book of orders appointing receivers of judgment debtors, at page 422, etc.

WM. E. HASWELL,  
*Clerk.*

## SUPREME COURT — COUNTY OF ALBANY.

THE PEOPLE OF THE STATE OF NEW YORK *against* THE THIRD  
AVENUE SAVINGS BANK.

*To the above-named defendant :*

You are hereby required to answer the complaint of the plaintiff herein, a copy of which is hereto annexed, and to serve a copy of your answer on me at my office in the State Hall, in the city of Albany, N. Y., within twenty days after the service of this summons, exclusive of the day of service, or the plaintiff will apply to the court for the relief demanded in the complaint.

DANIEL PRATT, *Attorney-General,*  
*Plaintiffs' Attorney.*

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## SUPREME COURT — ALBANY COUNTY.

THE PEOPLE OF THE STATE OF NEW YORK *against* THE THIRD  
AVENUE SAVINGS BANK.

The above-named plaintiffs, by Daniel Pratt, their Attorney-General, complain of the defendant, and allege:

That the defendant is a corporation duly created and organized under and in pursuance of an act of the Legislature of the State of New York, entitled "An act to incorporate the Bloomingdale Savings Bank," passed April 17, 1854, and an act entitled "An act to amend an act entitled 'An act to incorporate the Bloomingdale Savings Bank,'" passed April seventeenth, one thousand eight hundred and fifty-four, passed February 24, 1859, and "An act to amend 'An act entitled An act to incorporate the Bloomingdale Savings Bank,'" passed April 17, 1854; and "An act amending the same," passed February 24, 1859, passed April 1, 1865; and "An act in relation to the Third Avenue Savings Bank," passed April 25, 1867, and the several acts amendatory of those above mentioned.

That said corporation has for several years last past conducted and carried on in the city of New York, in the State aforesaid, the business of a savings bank.

That said corporation is now and has been for more than one year last past insolvent, and unable to pay its debts and the liabilities of the said corporation arising from the deposits of money made therein, have been and are very much greater than, and far in excess of, the value of all the assets of said corporation.

That, in pursuance of chapter 371 of the Laws of the State of New York, passed in the year 1875, and chapter 693 of the Laws of 1871, the Superintendent of the Banking Department of the State of New York has caused said corporation to be visited and examined by two

competent persons appointed by him for that purpose, and said Superintendent has sent a communication to the Attorney-General of the State of New York, a copy of which is hereto annexed and made part of this complaint.

Wherefore, these plaintiffs demand judgment, first, that said corporation, the defendant above named, be dissolved; second, that said corporation, its officers and agents be restrained and enjoined from exercising any of its corporate rights, privileges or franchises, and from collecting or receiving any debts or demands, and from paying out or in any manner transferring or delivering to any person any of the moneys, property or effects of the said corporation; that a receiver of the property and effects of the said corporation may be appointed pursuant to the provisions of the Revised Statutes and laws of this State, with all the powers and authority conferred upon receivers in such cases; that the plaintiffs have their costs of this action.

DANIEL PRATT, *Attorney-General*,  
*Plaintiffs' Counsel.*

STATE OF NEW YORK, }  
 ALBANY CITY AND COUNTY, } ss.:

DeWitt C. Ellis, of said city, being duly sworn, says: That he is the Superintendent of the Banking Department of the State of New York, and is familiar with the facts set forth in the foregoing complaint; that the aforesaid complaint is true of his own knowledge, except as to those matters therein stated on information and belief, and as to those matters he believes it to be true.

D. C. ELLIS.

Sworn to before me, this 29th day }  
 of September, 1875. } ss.:

R. M. BARBER,  
*Commissioner of Deeds, Albany, N. Y.*

STATE OF NEW YORK:

BANK DEPARTMENT, }  
 ALBANY, September 29, 1875. }

Hon. DANIEL PRATT, *Attorney-General*:

SIR.—In pursuance of section 44 of chapter 371, Laws of 1875, I hereby call your attention to the condition of the Third Avenue Savings Bank, in the city of New York. From the official report made by Geo. W. Reid and W. F. Aldrich, examiners duly appointed by me to examine into the affairs of said savings bank, it appears that on the twenty-third day of March last the liabilities of said bank were \$1,443,112.39 and the assets were \$1,223,886.08, showing a deficiency of assets, with which to meet its liabilities, of \$219,229.81. From official knowledge I have reason to believe that the deficiency has largely increased since that date, and that the condition of said

bank is such that it is no longer safe or expedient for it to continue its business. I would, therefore, recommend that you take such legal proceedings in the premises as may be required to close up its affairs.

Respectfully yours.

D. C. ELLIS,

*Superintendent.*

STATE OF NEW YORK, }  
CITY AND COUNTY OF NEW YORK, } ss.:

Daniel Bates, of the city of New York, being duly sworn, says that he is the president of the Third Avenue Savings Bank, defendant in the above-entitled action, that the allegation of the complaint and the certificate or communication of D. C. Ellis, superintendent, etc., hereto annexed are true.

DANIEL BATES.

Sworn to before me, this 29th }  
day of September, 1875. }

R. M. BARBER,

*Commissioner of Deeds, Albany N. Y.*

Indorsed: Filed September 29, 1875, 4.15 P. M.

#### SUPREME COURT — ALBANY COUNTY.

THE PEOPLE OF THE STATE OF NEW YORK *against* THE THIRD AVENUE SAVINGS BANK.

And now come the Third Avenue Savings Bank, defendant above named, by M. T. & L. G. Hun, its attorneys, and answers the complaint of the plaintiff and alleges: That the defendant is and was, during the times mentioned in the complaint, a corporation duly created and organized under and in pursuance of the laws of the State of New York, and carried on business in the city of New York—as in the complaint alleged; that the several allegations in the complaint contained, as to the financial condition of the defendant and as to the Superintendent of the Banking Department of the State of New York, are true.

M. T. & L. G. HUN,

*Defendant's Attorneys, Albany N. Y.*

#### SUPREME COURT — ALBANY COUNTY.

THE PEOPLE OF THE STATE OF NEW YORK *against* THE THIRD AVENUE SAVINGS BANK.

To Messrs. M. T. & L. G. HUN, *Defendant's Attorneys.*

GENTLEMEN.—Take notice that on all the pleadings and papers, record and proceedings had in this action, this court will be moved at a Special Term thereof, to be held at the City Hall, in the city of Albany, on the 4th day of October, 1875, at the opening of the court



on that day or as soon thereafter as counsel can be heard that judgment of dissolution be entered against the defendant above named, and that a receiver of its assets and effects be appointed, and that the plaintiff have such other or further order or relief in the premises as may be just.

Yours, etc.

DANIEL PRATT, *Attorney-General,*  
*Plaintiff's Attorney.*

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At a Circuit Court and Special Term of the Supreme Court of the State of New York, held at the City Hall, in the city of Albany on the 4th day of October, 1875.

Present — Hon. T. R. WESTBROOK, *Justice.*

THE PEOPLE OF THE STATE OF NEW YORK *against* THE THIRD  
AVENUE SAVINGS BANK.

This cause coming on to be heard on the complaint, report of Hon. De Witt C. Ellis, the affidavit of Daniel Bates, the answer of the defendant and a notice of motion for the final decree herein, after hearing Charles S. Fairchild, Deputy Attorney-General, on behalf of the plaintiffs above named, and Hon. John T. Hoffman and Marcus T. Hun, Esq., on behalf of the above-named defendant, it is ordered, adjudged and decreed,

*First.* That the defendant above named, The Third Avenue Savings bank, be, and the same is hereby dissolved, and that from henceforth it determine and cease to exist as a body corporate.

*Second.* That William S. Carman, of the city of New York, be and is hereby appointed receiver of all the stock, property, things in action and affects, real and personal of such corporation, The Third Avenue Savings Bank, and of all property held by it with the usual powers and duties in such cases enjoyed and exercised by receivers, according to the practice of this court.

*Third.* That before entering upon the duties of his office, such receiver make, execute and deliver himself, and cause to be excuted and delivered by at least two sufficient sureties, to be filed with the clerk of Albany county, a bond to the people of the State of New York in the penal sum of seventy-five thousand dollars, conditioned for the faithful execution by said receiver of the trust in him placed, and the due performance of all duties appertaining thereto; said bond to be approved as to its sufficiency, form and manner of execution, by a justice of the Supreme Court after due notice of the time and place of the making of the application for such approval has been

first given to the Attorney-General of the State of New York, upon the filing of which bond thus approved the receiver is authorized and directed to take possession of and sequester the stock, property, things in action, and effects real and personal of said corporation, and to take and hold all property held by or in the possession of said corporation.

*Fourth.* That all money, personal property, choses in action and effects of or held by said corporation, and all securities and obligations belonging to said corporation coming into the hands of said receiver, except articles of furniture and corporate books, and except the sum of ten thousand dollars to be retained by said receiver for the payment of necessary and incidental disbursements, be deposited with the United States Trust Company, of the city of New York, to be held by said last-named corporation, subject to the further order of this court and to the credit of the receiver in this action; said money and securities so deposited as aforesaid with said United States Trust Company, not to be delivered over by it, except subject to and in pursuance of the order of this court.

*Fifth.* That the said receiver do also forthwith proceed and recover, by process of law or otherwise, pursuant to statute in such case provided, any sum which may be due to said corporation, if the person so indebted be not wholly insolvent.

*Sixth.* It is further ordered that the said receiver, in the discharge of the duties of his trust, be vested with all the rights and powers, and be subject to all the duties and liabilities declared by statute in such cases, and proceed in all respects pursuant to article three, title four, chapter eight, part third of the Revised Statutes (except as herein otherwise provided).

*Seventh.* It is further ordered that before any distribution of any portion of said funds or assets shall be made, and within six months from the date of this order, the said receiver report to this court, after giving notice of his intention so to do to the Attorney-General, his proceedings under this order, with an exhibit of the accounts and demands for and against said corporation and all its open and subsisting contracts, and a statement of the amount of the money and assets in the hands of said receiver, together with a statement of his expenses and commissions, to the end that such order may be made in regard thereto as the nature of the case may require. And it is further ordered that until the coming in of said report, and the hearing thereon the question as to the distribution of said assets and moneys, and of the rights and interests of the respective parties claiming the same or any portion thereof, and other questions not herein disposed of, be reserved for further directions.

*Eighth.* It is further ordered that said receiver pay out of and from

the moneys of said corporation coming into his hands to the attorneys for the defendant herein, their taxable costs and five hundred dollars as an extra allowance herein.

*Ninth.* It is further ordered that such further application may be made to the court on the footing of this decree as the receiver may be advised is proper and necessary for his instruction in the management and conduct of his trust. It is further ordered that, except as herein ordered and directed, the said receiver shall not dispose of or in any manner interfere with any of the assets of said bank directed to be deposited with the United States Trust Company. He shall immediately (upon the approval of the bond herein required to be given), in the presence of the Superintendent of the Banking Department of the State of New York, take the assets so directed to be deposited from said bank and deposit them with the said United States Trust Company, and take from said Trust Company a receipt stating that such assets are received under and in pursuance of the provisions of this decree, and under the restrictions as to their transfer or disposition in this decree mentioned.

*Tenth.* It is further ordered that no application shall be made to any court, nor shall any action of the court be asked or suffered by the receiver relative to or in any way connected with the duties of said receiver, or the funds or assets of the defendant above mentioned, or their transfer, sale or delivery, unless a five days' notice of such application be first given to the Attorney-General of the State of New York.

WM. E. HASWELL, *Clerk.*

Indorsed: Recorded in Albany county clerk's office, October 6, 1875, 3 P. M., in book of orders appointing receivers of judgment debtors, page 456.

WM. E. HASWELL, *Clerk.*

And filed October 6, 1875, 3 P. M.

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### PLAINTIFF'S EXHIBIT No. 8.

At a Special Term of the Supreme Court of the State of New York, held at the Supreme Court Chambers, in the City Hall, at the city of Kingston and county of Ulster, on the 13th day November, 1875.

Present—Hon. T. R. WESTBROOK, *Justice.*

THE PEOPLE OF THE STATE OF NEW YORK *against* THE THIRD AVENUE SAVINGS BANK.

On reading and filing the order to show cause in this action, dated the 30th day of October, 1875, made by Hon. T. R. Westbrook,

justice, etc., returnable on the 6th day of November, 1875, with the petition, affidavits and papers on which the same was granted, with proof of service of the same as required by said order, the return thereof having been changed to this day by order of the justice who made the same on the application of William Peet, attorney for William S. Carman, receiver, etc., and on motion of Edward Fitch, of counsel for the petitioner named in said petition, after hearing Mr. Edward Fitch, of counsel for said petitioner, and Algernon S. Sullivan and Mr. James S. Stearns, each separately appearing for other creditors of the defendant concurring in the petition, and after hearing Messrs. Peet and Hun, for Mr. Carman, the receiver and the defendant, and Mr. Charles S. Fairchild, deputy attorney-general, for the people, it is ordered, adjudged and decreed as follows:

*First.* That the appointment of William S. Carman, of the city of New York, as receiver under and by decree of this court, made in this action at a special term thereof, held at the City Hall, in the city of Albany, on the 4th day of October, 1875, be, and the same is, hereby vacated, annulled and revoked, and the said William S. Carman is hereby perpetually enjoined and commanded to cease and desist from performing or exercising all and every the powers and duties given to or conferred upon him by the said decree.

*Second.* That Samuel H. Hurd, of the city of New York, be and he hereby is appointed receiver in the place and stead of said William S. Carman, of all the stock, property, things in action and effects real and personal of the corporation The Third Avenue Savings Bank, defendant in this action, and of all property held by it with the usual power and duties in such cases enjoyed and exercised by receivers according to the practice of this court, subject, nevertheless, to all the terms, conditions and provisions expressed and contained in the said decree.

*Third.* That the said William S. Carman account for and deliver and pay over to the said Samuel H. Hurd, hereby appointed receiver, all the money, stocks, property, things in action and effects, both real and personal, which have come into his possession and control as receiver, as aforesaid, and that he render a correct and true account of all things done and suffered by him as such receiver.

*Fourth.* That Delano C. Calvin be and he hereby is, appointed referee to take and state the account of said William S. Carman, as receiver, as aforesaid, and report the same to the court, with his opinion thereon.

*Fifth.* That the final decree in this action made as aforesaid be and the same is hereby amended so as to conform to this order.

*Sixth.* It is further ordered that the said Samuel H. Hurd, who is hereby appointed receiver as herein before stated, shall execute a bond

in the penalty of one hundred and fifty thousand dollars, conditioned for the faithful performance of the trust committed to him as such receiver as aforesaid ; the form thereof and sureties thereto shall be approved by one of the justices of this court, upon the approval whereof, and not before, the said Samuel H. Hurd shall enter upon the discharge of his duties as such receiver ; that upon the entry of this order and the filing of the bond approved as aforesaid, and the presentation to the said William S. Carman of a copy of this order duly certified by the clerk of the county of Albany, and of a certificate by the clerk aforesaid that the bond hereby required has been duly filed, the said William S. Carman, who is hereby removed from his position as receiver, shall immediately deliver over to the said Samuel H. Hurd all property of any kind, name and nature which he has in his possession or under his control by virtue of his original appointment as such receiver, and also all books, papers, documents, vouchers and memoranda kept, made or taken by him while acting as such receiver.

And it is further ordered that the judgment entered in this action remain in full force, except so far as it may be modified by this order, the various parties who have appeared upon this motion will be heard hereafter upon the allowance, if any, to be made to counsel.

Clerk of Albany county will enter the foregoing order.

(Copy.)

T. R. WESTBROOK,

*Justice Supreme Court.*

Indorsed: Recorded in Albany county clerk's office, December 6, 1875, 2 P. M., in book of orders appointing receivers of judgment debtors at page 444, etc.

WM. E. HASWELL,

*Clerk.*

Filed December 6, 1875, 2 P. M.

## SUPREME COURT.

THE PEOPLE OF THE STATE OF NEW YORK *against* THE THIRD AVENUE SAVINGS BANK.

*Ulster Special Term, November 1875.*

Motion on the part of the defendants to remove William S. Carman from the office of receiver of the bank.

*Mr. Fitch*, for sundry depositors making the motion.

*Algernon S. Sullivan*, for other depositors who unite in the application.

*James S. Stearns*, for still other depositors, who also ask the removal of the receiver.

*Peet & Hun*, for the receiver.

*Charles S. Fairchild*, deputy attorney-general, for The People.

WESTBROOK, J.—Continual engagements in Circuit, since the submission of this matter one week ago, have prevented its earlier examination and decision, and other and pressing duties at the present only allow a very brief statement of the reasons which induce me to grant the application to remove the receiver. From the complaint in the action, which was verified by Daniel Bates, president of the defendant, it appears that The Third Avenue Savings Bank was on the 29th day of September, 1875 (the day of the verification of such complaint) insolvent, and had been for more than a year prior to such date. On the 23d day of January, 1875, the receiver, who was then the secretary of the corporation, signed and verified a report which purported to be a just and true statement of the condition thereof, on the first day of that month, whereby it was shown that the bank was solvent, and that the assets of the institution were \$6,960.65, in excess of its liabilities. On the 26th day of December, 1874, and about a month prior to the date of such report, the present receiver had been made secretary of the defendant, at which time its situation must have been known to the directors who appointed him. The suit to dissolve the corporation and wind up its affairs, was confessedly instituted at the request of its directors and the appointment of the present receiver upon the application for judgment. No objection being made by any of the counsel who appeared in it originally, was evidently the suggestion of such officers. The present application then presents this question: Is an individual, who, on the 26th day of December, 1874, was appointed secretary of the then known insolvent savings bank, by its three directors, who was used by them in a month thereafter to make and verify a false statement, declaring its solvency, and who was named by them as its receiver in a suit which they caused to be instituted to wind up its affairs, a fit and proper person to execute such trust; especially should he be retained when every creditor, so far as known, asks for his removal? The statement of the case indicates the answer. If Mr. Carman made a willfully false oath in January, 1875, representing the bank to be solvent, he surely is not a proper person to be intrusted with the delicate and important duties which he is called upon as a receiver to discharge. If after filling the office of secretary for only three days less than a month, he could be so easily imposed upon as to make such false statements, he certainly has not the requisite mental qualifications to grapple with the difficulties which must surround him in his new position. If he was so confiding as he says he was, by way of excuse, as to take the actuary's statement of the condition of the

company as true, and swear positively upon mere information, without knowledge, such confidence may be imposed upon hereafter, as it certainly has been in the past, to the great injury of others. Apart, however from the objections which present themselves to the continuance of Mr. Carman, as receiver by reason of his confessedly erroneous report and affidavit in January last, his connection with the managers of the institution renders him an improper person to discharge this trust. He was the secretary of their selection, the receiver of their choice. In his latter capacity he will be called upon to investigate the acts of his patrons and the proper discharge of his duties may require him to sue those to whom he is under personal obligations. Duty and feeling should not collide in the person of the receiver. If they do, and the former is overcome, human nature will only repeat itself. To such a temptation no officer which the court selects should be subjected. These views have been expressed before by me in another case, and they are regarded as sound now. Besides, the investigation of his own conduct as secretary may be necessary. How many of the present depositors of the defendant, if any, have become such by reason of his false statement in January, does not appear. It is but fair to conclude, however, that as there was no public disavowal by Mr. Carman of the want of truth in his affidavit until this suit instituted in September last to dissolve and distribute the effects of the corporation, startled the public, that considerable of the creditors became such during that period. Is it fair that such persons that Mr. Carman should sit in judgment upon his own conduct? To this most obviously only a negative answer can be given. For the reasons thus briefly stated Mr. Carman must be removed and a new receiver appointed. The attorneys for the moving parties will prepare the necessary order and submit the same to me for approval.

*Samuel H. Hurd*, being duly sworn on behalf of the State, testifies as follows:

Examined by Mr. TRACY:

Q. Where do you reside, Mr. Hurd? A. In New York city.

Q. Are you the person who was appointed a receiver of the Third Avenue Savings Bank? A. I am, sir.

Q. Do you still hold that position? A. I do.

Q. When did you enter upon the duties of your office as receiver? A. I think it was the 6th of December, in 1875.

Q. Have you brought the books with you that you were subpoenaed to bring? A. Yes, sir; I think I have brought all that I was called upon to bring.

Q. Have you the copy of your subpoena here? A. Yes, sir [witness produced it.]

Q. Have you got here the ledger, cash-book and minutes? A. Yes, sir.

Q. And all the matters mentioned in the subpoena? A. I think all of them, except some orders called for that Mr. Smythe will bring up; he had them; I brought all I had in my possession.

Q. Where did you keep your office, as receiver, from the first? A. I kept it in the bank building, corner of Third avenue and Twenty-sixth street, until the bank was sold.

Q. When was that? A. About the 1st of May, 1876; I am not positive as to the date; it may have been the twelfth and under the Fifth National Bank on Third avenue, near the corner of Twenty-third street.

Q. Upon entering upon the duties of your office did you examine the books and papers of the bank? A. I did, sir.

Q. What was your occupation before that? A. I was in the mercantile business.

Q. Were you, or were you not, familiar with the books and accounts? A. Yes, sir, I am and were.

Q. Did you report the condition of the bank from time to time after you were receiver; the condition of affairs? A. Yes, sir; I do not understand the question exactly; I did make reports.

Q. Did you make reports to the superintendent? A. No, sir; I did to the courts on two occasions, I think, and to the depositors once or twice, I think.

Q. With whom and where did you leave those reports? A. Those reports were filed, as I understand it, in Albany; at any rate my order was to file them there.

Q. In the Supreme Court at Albany? A. In the county clerk's office at Albany.

Q. Have you copies of those reports here? A. No, sir; those reports are in the hands of my counsel, who said he would be here to-day.

Q. Mr. Smyth? A. Yes, sir; he has copies of those reports, and as he is subpoenaed he said he would bring them.

Q. Who assisted you about your work? A. Mr. A. Sellers.

Q. He is present here? A. Yes, sir; this is a copy of the liability to depositors, and I think there is appended to it some other matter; there is a list of bonds and mortgages, and trustees' bonds.

Mr. TRACY—Mr. President, I will suspend the examination of Mr. Hurd until the other papers arrive.

*Abraham Sellers*, being duly sworn on behalf of the State, testified as follows:

Examined by Mr. TRACY:

Q. Where do you reside? A. New York city.



Q. What is your business? A. Accountant.

Q. How long have you been an accountant? A. Twenty years.

Q. Were you employed by Mr. Hurd, the receiver, upon this business of the Third Avenue Savings Bank? A. I was, sir.

A. When? A. In December, 1875, immediately after his appointment as receiver.

Q. Have been there subsequently? A. Have been there altogether; am there now.

Q. Did you at any time, and when, make an examination of the books, papers and assets of the bank? A. Immediately upon Mr. Hurd's taking possession I examined them in conjunction with Mr. Hurd — all of the books, papers and assets.

Q. These were the papers handed over by Mr. Carman? A. Yes, sir.

Q. Mr. Carman, the previous receiver? A. Yes, sir.

Q. Can you say whether they seemed to be a complete set of books of the bank? A. Well, I would not like to say, but I believe they are mostly there; I discovered on several occasions a slight deviation from some of the books; not in the books themselves, but a lapse of time between two or three of the minute books, which is only necessary to say the whole of the thing was in such bad order, the books and every thing else, it is hard to tell.

Q. How much cash was there handed over to Mr. Hurd? A. About \$7,000.

Mr. McGUIRE — To all this line of investigation, Mr. President, we object; and probably we might as well have the question settled by the Senate here, as anywhere. Respondent's counsel object to this class of testimony as being immaterial and inadmissible, and improper as against the respondent. The counsel for the people said that the first object of the testimony is to show what the real condition of the bank was at the time the receiver was appointed. Also, upon the ground of the respondent's pleadings put the question in issue.

The PRESIDENT — The chairman is of opinion that the testimony is competent upon the question of the degree of negligence. If any Senator desires it, the chair will submit the question to the Senate; if not, the examination will proceed. Mr. Tracy will proceed.

Q. Will you state how much cash was handed over by the first receiver to the second? A. About \$7,000.

Mr. McGUIRE — The President will bear me witness; the plea of general denial was interposed the other day for the purpose of going along with the proceedings, reserving the right on our part to put in such a plea as we might desire.

The PRESIDENT — Does the learned counsel undertake to withdraw his plea of general denial?

Mr. MCGUIRE — Yes, sir ; because there are admissions in this plea inconsistent with a general denial?

The President submitted the question, whether the testimony should be received, and it was decided in the affirmative.

The Senate hereupon took a recess to four o'clock, P. M.

SARATOGA SPRINGS, *July 23, 1877* — 4 P. M.

The Senate met pursuant to adjournment.

Mr. CHAPMAN — Mr. President ; after adjourning to day noon, and going to the hotel, I was very sorry to receive a telegram from Mrs. Ellis, to the effect that Mr. Ellis was very sick in Albany, and that it was uncertain when he could come ; I have also a communication to the effect we shall hear from them ; the telegram indicates we shall receive a further communication from them by mail ; and it seems to me it would be a matter of impropriety in going on with the examination of witnesses without Mr. Ellis being here ; I would suggest, therefore, the propriety of adjourning until to-morrow morning.

On motion of Senator Cole, the Senate adjourned to to-morrow morning at ten A. M., *July 24, 1877*.

SARATOGA SPRINGS, *July 24, 1877* — 10 A. M.

The Senate met pursuant to adjournment, a quorum being present.

Mr. MCGUIRE — Mr. President, we have received a communication from Mrs. Ellis, the wife of the superintendent, announcing that it is impossible for Mr. Ellis to be here now, and that the physician under whose care he is forbids his attendance, at least for a day or so. And as the counsel for Mr. Ellis do not feel justified in consenting that his prosecution should go on in his absence, caused by his sickness, we would therefore ask the Senate to postpone the hearing until to-morrow. And in consultation with Mr. Chapman we have concluded to — one or the other of us — go to Albany to-day, if possible, to see Mr. Ellis, and ascertain his condition ; and after ascertaining what condition he is in, then our future conduct will be governed by the condition in which we shall find him. But we can determine by to-morrow morning as to what course the superintendent or his counsel will be inclined to pursue, and we therefore would ask the indulgence of the Senate to postpone this matter until the counsel for the respondent can communicate with him, either in person or otherwise.

The counsel for the prosecution announced that they were ready to go on with the prosecution in relation to the Third Avenue Savings Bank.

The counsel for the respondent said they had no objection to the identification of any documents which the counsel for the people might desire to establish.

*Frederick Smythe*, being duly sworn on behalf of the State, testified as follows :

Q. Mr. Smythe, will you state your residence ? A. New York city.

Q. Your profession ? A. Lawyer.

Q. Were you the attorney and counsel for the receiver of the Third Avenue Savings Bank ? A. Counsel for the receiver.

Q. And as such had you any charge of certain bonds called the indemnity bonds, guarantee bonds ? A. I have.

Q. Have you those bonds here ? A. I have, sir.

Q. Produce them [witness produced some papers].

Q. Will you produce the bonds ? A. Yes, sir.

Q. On page 443 of the testimony, signed by Wm. A. Darling ; is that the paper ? A. It is.

Q. Have you some other bonds ? A. I have a bond for \$15,000, signed by Spencer K. Green.

Q. What is its date ? A. December 31, 1873.

Q. What amount ? A. Fifteen thousand dollars.

Q. Is it in the same form as the other ? A. Substantially.

Q. Have you another bond ? A. I have a copy of a bond.

Q. Not the original ? A. Not the original.

Q. You know it to be a copy ? A. I believe it to be a copy.

Q. Will you state the amount and date ? A. Yes, sir ; it is signed by David Morgan and a number of others.

Q. Read the names ? A. Wm. A. Darling, John H. Lyon, Daniel Bates, Wm. D. Bruns, W. B. Harrison, Jas. Stevens, Andrew Stevens, Jas. Owens, Richard Kelly, D. D. T. Marshall, David Morgan, Geo. Hencken, Jr., P. W. Decker, Wm. S. Opdyke, John Lacey.

Q. Give the date and amount ? A. Date, the 28th of January, 1872.

Q. Repeat the amount ? A. It is a separate bond ; each bond is in the sum of \$600 to each.

Q. Several bonds ? A. Yes, sir.

Q. Have you another ? A. No.

MR. TRACY — Mr. President, I offer all those in evidence ; I do it simply to show they are substantially in a form contained on page 443.

MR. MCGUIRE — If they are offered, the respondent objects to their reception as entirely immaterial.

THE PRESIDENT — These are the indemnity bonds in the printed book ?

Mr. TRACY — Yes, sir; they are the bonds which were given by gentlemen in the form which is contained here, and were entered as a guaranty bond, or something or other to the bank.

The PRESIDENT — The chair is of the opinion that the testimony is material, but will submit the question to the Senate if the Senate so desires. There being no objection to the ruling of the chair, the bonds will be received in evidence; they will be marked Exhibit No. 1.

Q. Did you prosecute those bonds? A. I did.

Mr. MCGUIRE — To that line of proof an objection is also interposed, for a like reason.

The PRESIDENT — Do you wish to show the bonds proved to be worthless, or defended on some ground touching the validity of the instrument?

Mr. TRACY — The charges are, the bonds were claimed to be invalid, and turned out to be, with the exception of one, worthless for any purpose of raising money; I want to show just how it turned out.

The PRESIDENT — The men were trustees of the bank?

Mr. TRACY — Yes, sir, mainly.

The PRESIDENT — The chair is of the opinion the testimony is competent.

Q. Did you use them? A. I did; I commenced actions on all those bonds in the Supreme Court, in the name of the receiver.

Q. Have you brought here your pleadings and processes? A. Yes, sir.

Q. You have them in your possession? A. I have them here, sir.

Mr. TRACY — I will beg to offer those in evidence; it is a formal thing to do; we can get them afterward; and I offer the summons and complaint in the several actions, and also the answers as far as received, and demurrers.

Q. Have you them all here? A. Yes, sir.

Mr. MCGUIRE — A like objection to the reception of such papers?

The PRESIDENT — The chair is of the opinion that the testimony is competent.

Mr. TRACY — It is to fulfill the allegations made here; I want to get in the fact that they offered the defenses as stated in the charges.

The testimony was submitted to the Senate by the president, and it was decided to receive the papers in evidence.

Mr. TRACY — Mr. President, in order to save time I will offer the parcel in evidence — offer the whole set in evidence; the whole are presented as proof of the fact that such answers were put in to the complaints made; and in respect to printing the whole of them, I

think that can be avoided by putting in a sample of them, which we will do when we have time to prepare them.

The PRESIDENT—Has the counsel for the State finished the examination of the witness in reference to the identification of documents?

Mr. TRACY—Yes, sir.

The PRESIDENT—Then the question comes before the Senate on the application of the counsel for the respondent.

Mr. TRACY—I desire to ask Mr. Smyth if he has recovered judgment in any of these cases, and whether he has recovered any money. Those two questions will dispose of all I have to say.

Mr. MCGUIRE—We have no objection, Mr. President, to their asking the questions, but to be taken under our objection as the other class of testimony was.

By the PRESIDENT:

Q. Have you recovered judgment in any of these actions? A. I recovered a judgment against two of the parties.

Q. State who they were and to what amount? A. I cannot give you the names.

Q. Can you give us the amounts? A. It was on the large bond.

Q. The old bond of 1872? A. Yes, sir.

By Mr. CHAPMAN

Q. The hundred thousand dollar bond? A. Yes, sir; the judgment was recovered in this way: they demurred to the complaint, and I got judgment overruling the demurrer as being frivolous, and upon that I took the judgment against those parties.

Q. Are the pleadings in those actions among this number? A. Yes, sir.

Q. Did you recover judgment in any other cases? A. You asked me if I recovered any money in those cases?

Q. Yes, sir? A. No; the execution has been returned unsatisfied; in respect to one other person, Mr. Opdyke, who was one of the signers of the bond; I wrote to him and he immediately paid the amount that he was bound for.

Q. Is that W. S. Opdyke? A. Yes, sir; that amounted to \$2,500, or in that neighborhood, and that is all the money that has been collected on those bonds; in the others, the suits are all pending, and not yet tried, they are on the calender, and have not yet been reached.

The Senate hereupon adjourned to Wednesday, July 25, 1877, at eleven A. M.

SARATOGA SPRINGS, *July 25, 1877* — 11 A. M.

The Senate met pursuant to adjournment, a quorum being present.

*Abraham Sellers*, being duly recalled on behalf of the State, testified as follows :

Examined by Mr. TRACY :

Q. When you commenced your service for Mr. Hurd, the receiver, did you see whether the following real estate was still on hand, undisposed of; I will read it, page 371: Ninety-two acres of land at Tarrytown, five houses in Forty-sixth street, house on Fifth avenue at Eighty-fifth street, house on East Forty-seventh street, house 36 East Forty-ninth street, the banking-house on Third avenue and Twenty-sixth street, and the house and lot adjoining? A. Yes, sir; it was all there.

Q. On hand still? A. Yes, sir.

Q. Will you state what, of this real estate, was disposed of by the receiver, and when and how it was done, and with what result?

Mr. MCGUIRE — Mr. President, do I understand the Senate to have decided that proof might be given of what this real estate or any of the assets sold for? I therefore object to any proof as to the values of the property established by the sale of the receiver, as being entirely immaterial and irrelevant to this examination.

The PRESIDENT — When was that property sold, Mr. Tracy?

Q. When was it sold? A. Most all of it on the twelfth of April.

Q. What year? A. Eighteen hundred and seventy-six.

By Senator BRADLEY :

Q. I desire to ask whether it was sold at public auction, or privately?

A. All of it sold at public auction.

Q. At public auction? A. Yes, sir.

Q. Advertised sale? A. Thoroughly advertised for several weeks.

The PRESIDENT — The opinion of the chair is the testimony is material and competent. Does any Senator desire to have the testimony submitted to the Senate; if no Senator so desires, the case will proceed.

Q. Having stated it was sold at public auction, upon advertisement, and the time about when it was sold, will you state what was the result of the several sales? A. Yes, sir; I can read them; I can state the price of each piece of property.

Q. State them? A. Banking-house, Third avenue and

Twenty-sixth street.....	\$55,000 00
House and lot, Fifth avenue and Eighty-fifth street.....	34,000 00
Lot and brick stable, Twenty-sixth street, adjoining the	
Bank.....	6,550 00

Lot on One Hundred and Fifty-ninth street, east lot, as it is called ; it is divided into two parts.....	\$3,850 00
West lot, same street.....	1,130 00
House and lot, 19 East Forty-sixth street.....	1,600 00
House and lot, 28 East Forty-seventh street.....	5,100 00
House and lot, 21 East Forty-sixth street.....	1,550 00
House and lot, 23 East Forty-sixth street.....	1,575 00
House and lot, 36 East Forty-ninth street.....	7,600 00
House and lot, 25 East Forty-sixth street.....	1,600 00
Lot at Yonkers .....	2,250 00
Property at Tarrytown.....	15,865 66

By Mr. TRACY :

Q. What description of the property? A. It is put down ninety-two acres ; it measured within a fraction of ninety on a subsequent survey.

Q. Have you before you the aggregate of those figures? A. One hundred and thirty-seven thousand nine hundred and forty-five dollars and sixty-six cents.

Q. State a little more particularly about the banking-house, whether the banking-house and the other lot were sold together or separately? A. Separately.

Q. In the list you have given the figures separately from the adjacent property? A. Yes, sir; banking-house, \$55,000.

Q. At the time you went there were there other bonds and mortgages on hand? A. Yes, sir.

Q. State now what was done with them in the way of collection and realization? A. They were as many as could be collected, collected, and the rest were put in suits, as is usual in proceedings taken, and many of them are still pending.

Q. Were any of them second mortgages? A. Yes, sir; two of them.

Q. Which were they? A. They were both on property on Fifth avenue, above Eighty-fifth street.

Q. Two of them? A. Yes, sir; on two houses.

Q. What was the result of those second mortgages? A. One of them, the property, was sold under a foreclosure of the first mortgage by the Mutual Life Insurance Company and brought \$906.60 over and above the first mortgage.

Q. Nine hundred and six dollars and sixty cents the receiver got? A. Yes, sir.

Q. How much was that second mortgage? A. Twenty-five thousand dollars.

Q. The other one? A. Twenty-nine thousand dollars.

Q. What was the result on that? A. Nothing has been done on that; the first mortgage is in foreclosure yet by the Mutual Life Insurance Company.

Q. Has the receiver had any offer for his mortgage, the second mortgage —

Mr. MCGUIRE — I object.

The PRESIDENT — The chair is of the opinion it is not competent.

Q. Has any interest been collected on the second mortgage? A. None, sir.

Q. State now to the Senate what has been done with the other mortgages, and what they produced? A. They are in process of collection.

Q. How much has been realized on them so far, that have been foreclosed or collected? A. I think there is only one that has been actually sold under a foreclosure; two or three pieces of property were bought in by the receiver, no bids having been received at any price for them.

Q. Bought in on his own foreclosure? A. Yes, sir; one piece was sold, and at for about the value of the mortgage, and the money will be paid; they had sixty days to pay it in; it is not paid yet, but it will be.

Q. That was about the value? A. Yes, sir; just about covered the claim.

Q. In the other cases? A. In the other cases we had to bid the property in; we could not get a bid at any price.

Q. Are there some of those mortgages yet in the process of suit? A. Yes, sir.

Q. Will you turn to the books which are here and state to the Senate how many new depositors made deposits with the bank between March, 1875, and September, 1875? A. I can state that; I have not the books here; it was impossible to bring them here; it would take a car to bring them up here.

Q. Can you state them? A. Yes, sir; upwards of 700 new depositors between March twenty-second and the day the bank closed; between March twenty-second, the day of the examination, and the closing of the bank.

Q. What was the amount of deposits in that period? A. In the neighborhood of \$130,000, in the new accounts.

Q. What other deposits were received at that time, and the amount? A. I do not remember that at all; I have no way of getting at that.

Q. Will you state how much was drawn out during that period? A. About \$34,000, leaving about \$96,000 of the new money in the bank when the bank closed.



Q. About \$34,000 of the new deposits drawn out? A. Yes, sir.

Q. Leaving how much in? A. In the neighborhood of about \$94,000 to 96,000.

Q. Were any dividends made among the creditors and depositors by Mr. Hurd, or Mr. Carman, either of the receivers? A. Mr. Carman made no dividend.

Q. Mr. Hand made a dividend? A. Yes, sir.

Q. Of how much? A. Fifteen per cent.

Mr. McGUIRE — I object to that as entirely immaterial.

The PRESIDENT — In the opinion of the chair it is immaterial.

Mr. TRACY — It may not be material, but it would be very awkward if the Senate did not know how it came out; it will appear otherwise, perhaps.

Q. Will you look at the books and see whether any thing was done in the way of a dividend July 1, 1875, when the bank was in operation? A. Yes, sir; there was a partial dividend declared — not declared, but it came in a peculiar way as it appears by the books.

Q. Look at the books and state, what do you find there? A. I find commencing July, 1875 and running up to the twenty-ninth of September, the day the bank closed; I find a credit to certain depositors of interest amounting to \$8,429.77.

Q. Was that credit in all the accounts? A. No, sir; only partially.

Q. At what rate was it credited? A. Two per cent.

Q. Was it credited on the same date or different dates? A. Different dates; running from July to September.

Q. Will you find the entry of dividends made in the former year; will you state generally in what form the dividend appeared as made on the former occasion? A. Always by a resolution of the board of trustees.

Q. After the resolution, where were credits made? A. They were regularly credited on all the books, on all the accounts.

Q. At once? A. Yes, sir.

Q. As of that date? A. Yes, sir.

Q. This case of July 1, 1875, was it provided by resolution of the board of trustees? A. No, sir.

Q. You found these credits? A. Yes, sir.

Q. Upon the books? A. Yes, sir.

Q. Will you state how many depositors there were of that bank altogether at the time it closed? A. Upward of 7,000 — open accounts.

Q. To what amount did they all come? A. A million four hundred and odd thousand dollars.

Q. Can you turn to the books and see what was the actual cost of

the banking-house? A. I can tell what it purports to have cost [after examining the book the witness said]; the cost of the banking-house, as shown by the books, is \$195,000.

Q. Will you read off the items of that account as it stands on the ledger? A. That goes back to another ledger, over ten pages, including all the building accounts.

By the PRESIDENT:

Q. Was the banking-house built or bought already built? A. Built.

By Mr. TRACY:

Q. I understand from the witness this account fills a good many columns; I will ask him to read the items on this page? A. They are items of repairs.

Q. Read what they are; read the first one? A. The amount brought forward is \$180,004.22; the page of the ledger is 462, Ledger No. 3.

Q. Take the next item if you please? A. This is a bill of carpenter work by a man by the name of Bird.

Q. Read the entry? A. Bird, \$165; plumbing, \$113.05; ditto, plumbing, \$15.00 furniture and fixtures, \$15,033.45.

Q. That is the last item? A. Yes, sir.

Q. Turn to the first account; have you the first opening page of the account? A. Yes sir.

Q. What is the first item charged? A. This is ledger No. 2.

Q. The date? A. Eighteen hundred and sixty-three; page 25.

Q. Item? A. "Bond and mortgage, \$6,000;" that was a mortgage on a lot that they purchased.

Q. That was the first payment? A. Yes, sir the account of the bank building is the house and lot, too.

Q. Do you find on that first page what the cost of the land was complete? A. It appears to have been \$11,150.

Q. Which part was that? A. It was just the banking-house; because the other was bought long years afterward.

Q. Will you go on and give the items from the book before you, what the building down to its completion cost not the upholstering and repairing of it afterward, and all that? A. Of this account I could say in a few words, that all the items for the land and for the building and so on are charged against it; the land cost \$11,150; the balance is supposed to be the cost of the building; \$195,000 it stood on the books.

Q. When did it stand at that? A. When the bank closed.

Mr. TRACY—I want to see what it cost some time before; I would like to put the whole of that account in evidence; it seems to be impossible to make any thing out of it by reading it.

The PRESIDENT—Are you able to get the cost of the building at the time of completion? A. No, sir; not without looking over this account an hour or two.

The PRESIDENT—Do you desire to have the witness make the computation now?

Mr. TRACY—I will recall him on this point.

Q. Turn to the resolutions of the 17th of July, 1874; have you before you the books of minutes of this corporation? A. Yes, sir.

Q. Have you the resolution adopted on the 17th of July, 1874? A. Yes, sir.

Mr. TRACY—I wish to read from this book, adopted on that day, the following resolution: “On motion of Mr. Hencken, seconded by Mr. Bruns, resolved, that in view of the fact that the annexation of a large portion of Westchester county to the city of New York, and the prospect of a speedy completion of the New York, Boston and Montreal railroad have enhanced the value of the Tarrytown property, the application of that real estate in the July statement be estimated as follows:

Seventy-seven acres at \$2,000.....	\$154,000
Fifteen acres at \$1,000.....	15,000
Total.....	<u>\$169,000</u>

Also the following resolution: On motion of Mr. Bruns, seconded by Mr. Harrison, the usual semi-annual dividend was declared for July.

By the PRESIDENT:

Q. What year was that? A. July 17, 1874.

Q. State what the usual dividend—half-yearly dividend was? A. Six per cent per annum; five per cent on certain large amounts; six per cent on the smaller amounts.

Q. In the examination of your books, did you find a deficiency of about \$66,000 of cash, between the depositors' account and the cash account? A. Yes, sir.

Q. Point that out, if you please? A. On the 24th of September, 1875, I find on the journal this entry, made by Mr. Carman previous to his removal a few days: “Profit and loss. Dr. To depositors' account, \$66,617.28.” This amount being the difference between the general ledger and the dealers' ledgers, as appears by balancing the dealers' ledgers, commencing the 1st of January, 1875, and continu-

ing the examination by the secretary and book-keepers down to date. From information received of former clerks of this bank, this difference has existed in the books for several years.

By the PRESIDENT:

Q. How much is the difference? A. Sixty-six thousand six hundred and seventeen dollars and twenty-eight cents; that is to say, the dealers' ledgers show \$66,617.28 more due to the individual depositors than the general ledger did.

By Senator HARRIS:

Q. What was this item? A. To throw it into profit and loss.

Q. What was the date? A. September 24, 1875.

Q. Read the whole thing again a little more deliberately? A. "Profit and loss. Dr. To depositors' account, \$66,617.28;" then follows the explanation.

Q. Go on with the explanation? A. "This account being the difference between the general ledger and the dealers' ledger, as appears by balancing the dealers' ledgers, commencing the 1st of January, 1875, and continuing the examination by the secretary and book-keepers down to date. From information received of former clerks of this bank, this difference has existed in the books for several years."

By Senator WELLMAN:

Q. I understand you that entry is made by Mr. Carman? A. Yes, sir.

Q. After his appointment as receiver? A. Yes, sir; no, just before his appointment as receiver; no, while secretary.

Q. My question was, whether the entry was made by Mr. Carman, the receiver, and if so, whether it was made before his appointment or after? A. It was made by Mr. Carman before his appointment as receiver; a few days before the closing of the bank.

Q. As secretary? A. Yes, sir.

By Mr. MCGUIRE:

Q. That appears simply by the entry, but not as a fact; you do not pretend to state it as a fact? A. No, I do not; I am speaking from the books.

Q. Are you familiar with Mr. Carman's handwriting? A. Yes, sir.

Q. That is his handwriting? A. Yes, sir.

Q. Have you before you the petit cash-book of the expense account of the concern? A. Yes, sir.

Q. In March, 1873, do you find any entries from examination being made from the department? A. Not in March, in April.

Q. What day? A. The twenty-fifth of April.

Q. What is the entry? A. Bank department examination, \$175.

MR. TRACY — Mr. President, I have asked all the questions of this witness I desire to ask, but one, and that is the cost of the banking-house, and therefor I will suspend the examination for the present.

Q. I believe you did not state what the fixtures produced on the sale; did you? A. One thousand and fifty-nine dollars and twenty-nine cents.

MR. TRACY — That is all of him.

By Senator HARRIS :

Q. In relation to the \$66,000, did that appear upon a certain class of books as having been deposited? A. Yes, sir.

Q. And on another class it did not appear? A. Yes, sir.

Q. And this entry was made to make the two classes of books agree? A. Yes, sir.

Q. The bank-books did show \$66,000 had been received, and another book did not show it had been received? A. Yes, sir.

Q. And this entry was simply to balance the two? A. Yes, sir.

By Senator MCCARTHY :

Q. Were any of these bonds and mortgages on unproductive property, that is to say, vacant lots, or land? A. Mr. Hurd could answer that better than I can.

By Senator BRADLEY :

Q. I desire to ask if the witness is able to state out of what particular transaction this \$66,000 arose? A. No, sir; he states there, from information he had received from the clerks, it had been going on for years.

Q. I understand it appears in one set of books there is an excess of \$66,000 of what appears in another? A. Yes, sir.

Q. I will inquire whether, by tracing the books, you can ascertain out of what particular transaction that arose? A. Yes, sir; I suppose it could be done with a great deal of labor, running through three or four years.

Q. Whether the furniture and fixtures, for \$15,000, sold for \$1,000; whether a part of them sold for about \$1,000, or the whole of them? A. The whole of them.

Cross-examination of *Abraham Sellers* :

By Mr. MCGUIRE :

Q. I understand you, Mr. Sellers, to state that you were employed

by Mr. Hurd soon after he was appointed receiver? A. At the time; yes, sir.

Q. Did you make a schedule of the property soon after he was appointed? A. We receipted a schedule handed us by Mr. Carman after comparing it with the fact.

Q. My question was, whether you made a schedule yourself? A. No, sir; I did not.

Q. You took the schedule made by Mr. Carman? A. Yes, sir.

Q. Did you examine that schedule? A. Yes, sir.

Q. Did you compare that schedule with the last preceding report of the bank? A. No, sir.

Q. To the department? A. No, sir.

Q. Have you ever compared to see whether that schedule contained the same items of property as reported by the bank to the department on the 1st of January, 1875? A. Yes, sir I have that; it does agree.

Q. It agrees? A. Yes, sir.

Q. So, all the property then that the bank reported to the department it had on hand? A. Yes, sir.

Q. Have you converted the entire assets of the bank? A. No, sir.

Q. What remains unconverted? A. A number of bonds and mortgages, and the trustees' bonds.

Q. Those bonds mentioned by Mr. Smythe here yesterday? A. Yes, sir.

Q. Have you sold the State stocks which the bank reported to the department that it had? A. All of them.

Q. Can you state what you sold the Louisiana bonds for? A. A fraction over forty-four, I think one-sixteenth or one-eighth.

Q. Can you state what the examiners reported the value of those bonds to be to the department in March, 1875? A. Yes, sir.

Q. What was the amount? A. Twenty-seven.

Q. Then you sold those bonds in excess of the value put upon them by the examiners; some \$17,000? A. Yes, sir.

Q. Can you state what you sold the Alabama bonds for? A. Not from memory; I could from the schedule.

Q. Look and see? A. The amount is here in gross, and I will have to make the calculation; the rate is not here; the gross amount is \$22,761.88: thirty-three and a fraction is the rate; \$68,500 of the Alabama bonds brought \$22,761.88, being a fraction over thirty-three per cent.

By Senator STARBUCK :

Q. Apprised at what? A. That I don't know.

Q. Can you tell, generally, whether it was in excess, or below the amount fixed by the examiners?

The PRESIDENT — The evidence already shows that.

Mr. McGUIRE — Mr. President, I hardly know, then, what to ask, if I am to be circumscribed in this way.

The PRESIDENT — The schedule before my eyes shows they sold for less than the amount reported.

Senator COLE — That fact we do not know.

Mr. McGUIRE — If we are to be limited to what does not appear we may as well quit.

The PRESIDENT — The only object was to call the attention of the counsel to the fact that the testimony was in, while the precise question may not be important sometimes the question is asked for the purpose of founding another upon, and not for the purpose of consuming time. Go on.

Q. If you will answer the question, whether it was below or above the amount fixed by the examiners? A. Below.

Q. How much below? A. What is your amount there? To about nine per cent below.

Q. The Georgia State bonds, how were they, above or below the amount fixed by the examiner? A. We had no Georgia bonds; they were all sold before Mr. Hurd took charge.

Q. State as to the Virginia bonds? A. They sold below.

Q. One general question upon it, Mr. Sellers; take the aggregate amount of all the bonds you did sell or convert — was the aggregate amount above or below the aggregate reported by the examiners to the superintendent? A. Above.

Mr. TRACY — In April? A. Yes, sir.

Mr. McGUIRE — In March?

Senator WELLMAN — Will the counsel please repeat the question and answer?

Mr. McGUIRE — The question was whether the aggregate amount of the sales of stock exceeded the aggregate amount reported by the examiners to the superintendent in March, 1875; your answer is, above? A. Yes, sir.

Q. I will call your attention now, Mr. Sellers, to the list of mortgages; you may look at this and see what amount you have collected upon the mortgages? A. Seventy-nine thousand seven hundred and thirty-four dollars and eighty-five cents.

Q. That is of principal? A. Yes, sir.

Q. How much of interest? A. On the mortgage alone?

Q. Yes, sir? A. Three thousand two hundred dollars and eighty-two cents.

Q. Can you state the amount of mortgages uncollected? A. On

hundred and seventy-one thousand nine hundred and sixty-five dollars and fifteen cents.

Q. Take the two together, Mr. Sellers, the amount uncollected and the amount collected, how do the aggregate of those two sums compare with the amount reported by the examiners to the department? A. They report \$264,900.

Q. Take the examiners then, \$264,000, as the question was confined to that? A. What is it you ask, sir?

Q. My question was, Mr. Sellers, to add the amount collected upon the mortgages to the amount uncollected; how does the aggregate amount compare with the amount reported by the examiners to the superintendent? A. Thirteen thousand two hundred dollars less.

Q. And is that \$13,000 less upon them, on bonds and mortgages, balanced by the increased amount realized upon the sale of the State bonds? A. That I will have to make a calculation upon; I do not know.

Q. You have a general idea of the excess? A. No; for I do not think I ever looked at it again.

Q. As Mr. Tracy wishes to call you again, I can ask you again as to that; so then from this statement the large deficiency as appears upon your statement appears in the price put upon the real estate? A. Mostly; yes, sir.

Q. You have the book there of the testimony taken before the committee; you state generally, Mr. Sellers, that you found upon the schedule furnished you by Mr. Carman, the receiver, substantially the same property that the bank reported to the State department on the 1st of January, 1875? A. Yes, sir.

Q. You turn to page 371, if you please, containing the report of Mr. Hurd and Aldrich, of March 22 and 23, 1875? A. Yes, sir.

Q. You will see in that report \$25,000 of Kansas bonds? A. Yes, sir.

Q. Did you find any of those? A. No, sir.

Q. They had been converted or disposed of before it came into your hands? A. Yes, sir.

Q. Turn to page 488, being the report of the bank to the bank department, January 1, 1875; you see there on page 489, that they returned to the bank department—that they had Kansas bonds to the amount of \$125,000; do you not? A. Yes, sir.

Q. Were you acquainted with the market value of Kansas bonds? A. Not at all.

Q. Do not know whether they sold at par or not? A. No, sir.

Q. You found no Kansas bonds, nor any Georgia bonds? A. No, sir.

Q. Such as the report of the examiners show? A. No, sir.



Q. You will see mentioned, that that report of the bank of the 1st of January, 1875, does not refer to any 'Tennessee bonds?' A. It does not; no, sir.

Q. Have you looked at the books of the bank to see when those Tennessee bonds were purchased? A. I can tell in a minute by looking.

Q. Do so, if you please? A. They were bought on the 23d of January, 1875.

Q. Can you state the price paid? A. Yes, sir, by looking at the book; \$25,000 bought at fifty-three, and \$30,000 at fifty-three and a quarter.

Q. Please inform us when the Kansas bonds were sold, and at what price? A. They were sold on the 4th of March, 1875, at par.

Q. The whole of them? A. Yes, sir; a hundred thousand dollars, it appears here; I think that is all there was.

Q. They originally had \$175,000, you will see by their report of 1874? A. Yes, sir; \$100,000 was sold in March, 1875, at par.

Q. The examiner, you will see, on the twenty-third of March, reported they had \$25,000 still on hand? A. The \$25,000 was sold on the 7th of June, 1875, at ninety-nine and three-quarters.

Q. Will you please look at the report of the bank to the department, January 1, 1875, and see whether the bank reported those bonds at a sum in excess of par; on page 489 is the report of the bank; see whether the Kansas bonds were reported at par to the bank department? A. No, sir; reported to have cost \$114,000; the market value \$125,000.

Q. The par value would be \$125,000 on hand? A. Yes, sir.

Q. They simply reported at par? A. Yes, sir.

Q. And their cost value was \$114,000? A. Yes, sir, according to the figures here.

Q. When did you commence to advertise the sale of the real estate? A. I cannot tell exactly; some several weeks previous to the day of sale; I have not got that; it was in April, but they were advertised a month or six weeks before.

Q. Can you state in what papers the advertisements were published? A. Perhaps Mr. Hurd can; I can tell you only when it was sold; that is all.

Q. Have you any means of informing us who purchased this banking-house at \$55,000? A. I only know the parties represented in the transaction; I know there were two men: Thomas J. McCahill and Solomon Laimbeer, I think, his name was.

Q. Did you know the gentlemen at the time of the sale? A. Never saw them before in my life.

Q. Can you state what their business is? A. Mr. McCahill is a real

estate operator I understand, and Mr. Laimbeer, I understand, was formerly in the stable business, and I do not know what he does now.

Q. They both reside in the city of New York? A. No, sir.

Q. The house and lot on Fifth avenue and Eighty-fifth street — who purchased that? A. John Stevens.

Q. What is his business? A. That I do not know, sir.

Q. Had you any acquaintance with him prior to the sale? A. I can answer that question generally; I had no acquaintance with anybody that purchased that property.

Q. Who was the auctioneer that conducted the sale? A. Richard V. Hornet.

Q. Who purchased the lot and brick stable in Twenty-sixth street?

A. I really cannot remember, sir; I would have brought our own books up if I had thought it was necessary.

Q. You have some books? A. Yes, sir.

Q. Were those cash sales? A. Yes, sir; within thirty days; cash sales; yes, sir; in all cases.

Q. The east lot on One Hundred and Fifty-ninth street — can you tell who purchased that? A. No, sir; I do not think I remember any of the names.

Q. Was that a vacant lot? A. Yes, sir.

Q. And west lot on One Hundred and Fifty-ninth street — was also a vacant lot? A. Yes, sir.

Q. The house and lot on Forty-sixth street — do you recollect the name of the purchaser of that? A. I really do not; I do not remember the names of any of them.

Q. Were those pieces of city property all sold at the same time? A. All sold at the same time; yes, sir; the city property was.

Q. That is what I am speaking of? A. Yes, sir.

Q. Was that in April, 1866? A. April, 1876.

Q. Eighteen hundred and seventy-six, I would say. A. The twelfth of April.

Q. Mr. Sellers, was not the market for real estate at cash sales in April, 1866, much depreciated?

Senator WOODIN — Eighteen hundred and seventy-six.

A. I know nothing at all about the value of property; I am a comparative stranger in New York; have been there only three or four years, and do not know any thing about real estate.

Q. Any idea of the depreciation of real estate in the city of New York in — say 1876? A. I know it was very much depreciated; every thing was; yes, sir.

Q. And you were acting for the receiver, I understand? A. Entirely, sir.

Q. Did you regard it as prudent to force upon the market that

large amount of real estate at cash sales at the then unsettled or depreciated condition of the market? A. Well I should have to — yes, I thought it was prudent from the circumstances of the case.

Q. It was prudent because it was a receiver's sale; that was all that made it prudent, I suppose? A. No, sir; It was prudent because I think the depositors would never have been satisfied unless they had a dividend right away; some would have been scalped.

Q. Where was the Tarrytown property sold? A. Where all the rest was; at the real estate exchange.

Q. How far is Tarrytown from the city of New York? A. That I do not know; never was there in my life.

Q. How far is it? A. Twenty-six miles a gentleman told me.

Q. Do you know what county it is in? A. No, I do not even know what county it is in; I think it is in Westchester, though.

Q. Was the sale of that property advertised in any paper in the county of Westchester? A. That I do not know.

Q. You know, Mr. Sellers, it was not, do you not? A. No, sir; I do not.

Q. You do not know that it was? A. I do not; I presume it was, as a matter of course.

Q. I am not asking for presumptions; can you state now how long that real estate at Tarrytown was advertised for sale; confine your attention specifically to that? A. No, sir; I cannot say how long.

Q. Can you state in what papers in the city of New York the Tarrytown property was so advertised? A. If I was in my office I could; but I cannot tell here; we have copies of all those advertisements.

Q. Was it sold on the same day as the city property? A. It was not, sir; it was put up on the same day, but no bids; it was then re-advertised.

Q. How long subsequently before it was sold? A. About a month.

Q. Was that sold in a body, or in parcels? A. In parcels.

Q. Was it sold any different from what you have stated in this report — "Tarrytown property, \$16,865.66"? A. That is the aggregate amount of the sale.

Q. You say it was sold in parcels; describe what you mean by being sold "in parcels"? A. I mean that one purchaser, a man who had property up there, as I understood it, bought a small lot of it; the balance of it was all bought by one man; it was put up in sections; all of it was bought by one man, but a small portion.

Q. What amount in each section? A. It was uneven; it was according to the survey.

Q. On the average? A. I could not say; as high as six acres.

Q. A gentleman living there bought a small lot? A. Yes, sir.

Q. To what extent? A. Some ten acres, I think, and the balance was sold to another gentleman.

Q. The other sold to some gentleman in New York; a real estate operator? A. I do not know.

Q. Do you recollect the name of the purchaser? A. I do not; Kinnealy, or some such name as that.

Q. Did you know the gentleman that purchased? A. Never saw him in my life until he bought it.

Q. Can you tell whether he lived in the city of New York, or elsewhere? A. I do not know that.

Q. You had the principal charge of the sale? A. No, sir; I had nothing to do with it at all; Mr. Hurd managed all that.

Q. You were present at the sale? A. Only the Tarrytown property; I was present there.

Q. The inquiry now is limited to the Tarrytown property; can you state whether any private offers had been made for this Tarrytown property before this public sale? A. I do not know, sir.

Q. Had any been made to you? A. None, sir.

Q. Had any been communicated to you by Mr. Hurd, the receiver? A. None, sir.

Q. It will save us a little computation, as I apprehend the Senate will not need all the documents; can you state the price per acre of the Tarrytown property? A. It averaged about \$180, if my recollection is right.

Q. Have you sold all of the real estate belonging to the bank? A. No, sir.

Q. What remains unsold? A. It is all sold.

Q. Is it included in this report? A. No, sir.

Q. State the aggregate amount of the sales of real estate, as appearing by this report? A. One hundred and thirty-seven thousand nine hundred and forty-nine dollars and sixty-six cents.

Q. What is the amount not upon that report? A. One leasehold house was sold for \$2,750 at the same time that all this property was sold; the purchaser paid me ten per cent, and when the time came to make his payment he did not come up to his purchase and it was left.

Q. Is that the only piece of property? A. Yes, sir.

Q. It has been subsequently sold? A. Yes, sir.

Q. For how much? A. I do not know exactly; I have not received the account yet of it; it has been sold lately.

Q. It was sold for the charges upon it? A. Yes, sir.

Q. What do you mean by that? A. Accrued interest and ground rent.

Q. Accrued interest on what? A. On the mortgage; that was all

leasehold property; all that Forty-sixth and Forty-seventh street houses.

Q. That was one of the houses upon which there was a prior mortgage? A. No, sir; this is leasehold; it just about cleared itself out.

Q. What charges were upon it in 1875? A. I could not tell you that, sir, at all; I do not know.

Q. Could you tell whether there were any? A. Yes, sir; when we took possession there was a large amount of taxes and ground rent laying against all that property; some \$20,000 altogether.

Q. Have you credited yourself with the payment of the taxes and ground rent upon that property, in this report? A. Yes, sir; I can show them to you.

Q. You have credited yourself, given the amount you have received, so as to get into the debtor side? A. On the leasehold property there was a laying against it when the receiver took charge.

Q. I am speaking of this particular one piece of property? A. I cannot tell you that.

Q. That was a piece of property I was calling your attention to; cannot tell that? A. No, sir; I could if I had our receiver's books here.

Q. You have spoken about putting the mortgages in process of foreclosure? A. Yes, sir.

Q. How soon after you took charge of the business, did you commence foreclosure of these mortgages? A. Different mortgages at different times, as the judgment of the receiver dictated.

Q. That hardly gives us any information; say the first that you commenced foreclosure on? A. I could not, to save my life, answer any of these questions without our receiver's books; I cannot carry it in my mind, and was not asked to bring them, or I should have done so.

Q. I did not know but you might recollect whether it was a week or a month? A. It was longer than that; in the first place all the parties that had mortgages due were written to instructing them to pay up; a certain time was allowed them, and foreclosures started in some cases.

Q. Were there any other legal proceedings commenced by the receiver except the foreclosure of mortgages, and actions upon these personal bonds? A. I think not; I do not know of any.

Q. Will you look at that report and please inform the Senate the amount of fees the receiver has paid to counsel for the commencement of these foreclosure suits, and these suits upon bonds? A. I can answer that without looking at this; the only payment we made was \$3,000.

Q. How much payment, in all, has been paid? A. I probably did not understand your question.

The PRESIDENT — How much, in all, has been paid?

Mr. McGUIRE — As appearing from that report which Mr. Hurd makes to the court, in which he claims credit for it, \$15,039.15; that is what Mr. Hurd paid? A. Yes, sir.

Q. What did you mean by saying but \$3,000? A. I thought you asked how much did we pay of our own counsel fees; these were paid by order of the court, with the exception of \$3,000.

By Mr. TRACY:

Q. Only \$3,000 were for services rendered to Mr. Hurd? A. Yes, sir.

Q. The balance is for the former receiver, and putting the bank into the hands of the receiver? A. Yes, sir.

Q. Some \$10,000 or \$12,000 for putting the bank into the hands of the receiver — do you mean that? A. Yes, sir; I suppose it is that; it is by order of the court.

Q. Inform the Senate what expences Mr. Hurd has paid for persons employed about the receiver since he took the charge? A. About \$6,300 for services.

A. That is from December, 1876, to what time? A. December, 1875, to May, 1877.

By Mr. McGUIRE:

Q. For convenience, Mr. Sellers, if you will state the aggregate amount of receipts realized by the receiver, and the amount of expences, aggregating them, so that we can make a memorandum of it without going into the particulars? A. The total amount of all kinds we have charged ourselves with.

Q. Yes, sir? A. Received \$309,291.61?

By the PRESIDENT:

Q. He wishes to know how much has been expended? A. By us for our expenses?

Q. For all purposes?

Mr. TRACY — For all purposes except dividends.

By Mr. McGUIRE:

Q. No, excluding dividends, so as to see what there is for a dividend, if any? A. Forty-six thousand eight hundred and ninety-five dollars and sixty-four cents.

Q. The balance was divided among the depositors? A. Yes, sir; there was fifteen per cent dividend declared by order of the court.

Q. How much balance was there on hand of cash? A. At the expiration of that report, there was \$51,000.

Q. Still on hand? Yes, sir.

Q. I will call your attention, Mr. Sellers, to the sale of the fixtures, as neither the proof before the committee, or proof here, show what those fixtures were? A. No, sir; of course, among the papers, I have the auctioneer's account of each piece.

Q. No; what did the property consist of, called fixtures? A. Bank desks, gas fixtures, chairs, safes, and things of that kind.

Q. Can you tell us what kind of a safe it was? A. There were two safes in the vault.

Q. What kind? A. One was called the Terwilliger safe and I think the other was a Herring.

Q. Can you state what those safes sold for separately? A. I cannot; they did not bring much.

Q. Did not bring much? A. No, sir.

Q. Did they together bring \$100? A. Yes, sir; one of them brought over \$100.

Q. How much over \$100? A. I think about \$150.

Q. That is the best one? A. Yes, sir.

Q. How much did the other bring? A. Less than \$100; I think about seventy-five dollars or eighty dollars.

Q. About \$225 for the two safes? A. That is my remembrance, sir.

Q. Can you tell us what the largest or best safe cost when purchased? A. I am told about \$1,200.

Q. Your books show? A. Yes, sir.

Q. The one that was sold for \$1,500 cost, when purchased, \$1,200? A. Something like that; I would not say exactly; they were both in a vault, and the vault built around them, and could not be got out.

Q. Can you tell who purchased that safe? A. I could not remember; I think it was the man that bought the building; I am pretty sure it was.

Q. Can you tell what the safe that was sold for seventy-five dollars cost when purchased? A. I do not know, sir.

Q. I suppose you could tell by the books? A. Yes, sir; I could tell by the books I have in town; I could exactly.

Q. If you will look at that item? A. The books are in New York.

Q. I misunderstood you; desks, tables and chairs? A. Yes, sir; all office furniture of the bank.

Q. Rather costly furniture? A. Some quite costly.

Q. Was that sold for nominal prices? A. Yes, sir.

Q. Purchased by the same man? A. Some of it was, and some was not.

Q. Who else purchased some of it? A. People who were strangers to me.

Q. Sold by the same auctioneer? A. Yes, sir.

Q. When were they sold, the same time the real estate was? A. No, sir, after; shortly before the first of May.

Q. Is this the item that you mention as \$3,000 paid by the present receiver for council fees? A. Yes, sir.

Q. Was that for commencing suits upon these bonds? A. That was for professional services.

Q. Commencing suits upon these guaranty bonds? A. Yes, sir.

Q. A retaining fee? A. I do not know what you call it; I am not a lawyer.

Q. They had not performed any service when you paid the \$3,000?

A. They had performed considerable service; there had been foreclosure of mortgages before the date of that payment.

Q. The same firm foreclosed some of these mortgages? A. All of them, every bit of it.

Q. How many of the mortgages did they foreclose? A. I could not tell you without our books; I guess first and last ten or twelve, and perhaps fifteen.

Q. And the property bid in by the receiver in all of the foreclosures? A. Not all.

Q. What proportion of the sales under the foreclosure decrees was the property bid in by the receiver? A. All but one piece, I think; I do not know.

Q. What is this item: "Paid Mr. Lawrence, appraiser, \$163.63?"

A. By order of the Supreme Court.

Q. I see it is; what is the service for which that payment was made?

A. Appraising the property.

Q. When was the payment made to Lawrence? A. About January or February, 1876.

Q. What was the necessity of making the appraisement when you had a schedule of the property returned to you by the receiver? A. I do not know.

Q. If you will tell the necessity of making the appraisement I would like to know? A. I believe it is usual in those cases.

Q. I do not know but what it is among the receivers, but I am asking you what the necessity was for making the appraisement so as to call for an expenditure of this fund of \$1,500? A. I had not charge of the property; the receiver had charge of the property, and I was acting under him and under his direction.



Q. I see also a like payment of \$1,509.63 to R. G. Ralston as appraiser? A. They were both appraisers appointed by the court.

Q. Were they appointed by the court, or selected by the receiver? A. Appointed by the court.

Q. So that for the appraisment of property by these two gentlemen you paid over \$3,000, it seems? A. Yes, sir.

Senator HARRIS — I do not know what the theory of the counsel for the respondent is, but it seems to me that we are not here to try the receiver at all; what he has done with the property does not affect the issue the Senate is to pass upon; if he had stolen all this property it would make no difference in regard to forming a judgment as to the matter before the Senate; it seems to me that a great deal of time is being taken up here upon a matter which is entirely irrelevant to the matter which the Senate is called to decide upon; of course the Senate undoubtedly desires to give the greatest latitude to the respondent; it is right to do so; but, after all the particular manner in which the receiver has performed his duty, is clearly outside of the matter which the Senate has to pass upon here. The questions and inquiry in regard to the value of the property, and what was realized for it by the receiver, may be pertinent, but as to what the receiver did with the money, what expenses he paid, what counsel fees he paid, what appraisers he paid, these are entirely irrelevant. And while I do not wish to make a motion, it does seem to me that we are taking up a good deal of time upon matters which we cannot try. Take, for instance, the inquiry just put to the witness. We are not here to decide whether the receiver was justified in appointing appraisers or paying counsel, or what services the counsel rendered, or whether those services were worth the amount paid. Of course every Senator can see that it is not a matter we are to pass upon at all; has nothing to do with the matters with which we are charged to inquire into.

Mr. McGUIRE — Mr. President, I fully agree with the Senator from the Twelfth, that the whole of it is immaterial, and we insisted from the start that all this class of evidence had no materiality whatever, and, therefore, there will be no issue between the learned Senator and myself as to the materiality of it; but if the Senator will look at his documents he will find that one of the charges of the Governor against the Superintendent is that the depositors of this bank received only fifteen per cent. Now if this money is being squandered away in useless services, whether it is material or immaterial, it is directed particularly against the charge of the Governor. It shows that it is no fault of Mr. Ellis that they did not get any more than fifteen per cent, but the fault lies elsewhere. But I will say again, I do not regard the evidence as of any materiality whatever. As long as it is in the case it seems fit that we should give some answer to it.

The PRESIDENT—The counsel for the State has stated that the prosecution intend to insist here the bank superintendent should be held responsible for the conduct of the receiver, and the chair supposes that the inquiry is confined to matters which occurred before the appointment of the receiver, and, therefore, all the testimony of the conduct of the receiver is not material. The counsel will proceed.

Mr. TRACY—I beg leave to ask one question.

Redirect-examination :

Q. Will you state about how much, if any thing, the aggregate of the stocks purchased amounted to more than the examiners put them at? A. I could by making a calculation, but I cannot without doing so.

Q. Can you tell about how much it was? A. No, sir.

Q. Can you tell whether the aggregate amount of the stocks purchased was greater or less than the amount they returned, after the bank's report for the first of January? A. Greater.

Q. It was greater? A. What they sold for than the amount that was in the appraisement.

Q. I do not speak of the appraisement? A. In the report.

Q. What was the difference? A. I cannot tell without making a calculation; I know it is more; and that is all that I do know.

Q. During the time that elapsed after the receiver came in and the sale of the real estate, can you state what income was received from the real estate? A. Between what?

Q. What income was derived by the receiver from the real estate while he held it, before the sale? A. Five thousand seven hundred and sixty-five dollars and four cents.

Q. In how long a period of time was it? A. Between December and the first of May, when the property was sold.

Q. What year? A. The first of May, 1876.

Q. December was the time Mr. Hurd came in as receiver? A. Yes, sir.

Q. Can you tell what the charges were upon the property during that time? A. No, sir; not without a calculation from my own books.

Q. Can you tell whether it was more than the receipts? A. I cannot tell.

Q. Will this paper, which I show you, aid you in the matter? A. No, sir.

By Senator HARRIS:

Q. You state the amount of deposits drawn out by depositors between the examination in March, 1875, and the appointment of the

receiver in September — can you state the amount of deposits drawn out by old depositors? A. No, sir; I never was asked to go into that question; it was about the new depositors, and therefore I never went into the other.

Q. Would the books show? A. Yes, sir; not the books that are here.

Q. You cannot state the whole amount of deposits drawn out? A. No, sir.

Q. You only stated here the amount drawn out by new depositors? A. That was all.

*Samuel H. Hurd*, being duly recalled on behalf of the State, testified as follows :

Examined by Mr. TRACY :

Q. You are the receiver? A. I am, sir.

Q. Will you state, sir, whether any mortgages were on any unproductive property, unimproved property? A. Yes, sir.

Q. State all about it? A. There was a mortgage on property in Tarrytown that is unimproved; mortgage on some property in New Jersey, I think near Plainfield, that was unimproved; mortgages on property in Fifth avenue that are unoccupied.

Q. What property was that? A. The Fifth avenue property, on which there were second mortgages, but after all it is improved property.

Q. But unoccupied? A. Yes, sir: there are some mortgages upon some unimproved property in Elizabeth, N. J.; a large mortgage.

Q. Were any of these mortgages upon vacant lots in New York? A. So far as I recollect, not on any vacant lots in New York city.

Q. Where were the vacant lots? A. These mortgages on this property in Elizabeth, is property that had been laid off into city lots; it is a large tract of land; been laid off and ready to build a city upon; and this land at Tarrytown was a tract of something like twelve acres, that the bank originally traded to a man by the name of Kerwin, I think, for some of this Forty-sixth or Forty-seventh street leasehold houses.

Q. Are you able to say, Mr. Hurd, about how much the whole stock investment has produced? A. How much has been realized, you mean, out of the bonds that were on hand?

Q. No, sir; the stock? A. I do not understand you; by stock you mean the State bonds?

Q. For some Georgia state bonds? A. There were no Kansas state bonds that ever came into my possession, nor were there any Georgia state bonds; their books show sales, from time to time, along for two or three months prior to the dissolution of the bank, of Kansas bonds, and Tennessee and Georgia bonds.

Q. You found Louisiana bonds? A. Yes, sir, \$100,000 of Louisiana bonds that were sold for about forty-four.

Q. Alabama bonds? A. Yes, sir, for between \$68,000, and \$69,000, that were sold for about thirty-three.

Q. Tennessee State bonds? A. There were a few of those, about \$7,000, and they were sold for—I do not recollect the figure exactly, but I think somewhere in the neighborhood of forty; that is from recollection, though; and a few Virginia—\$2,000 or \$3,000 of Virginia, a part of them in bonds, and a part of it a deferred scrip; the State of Virginia claimed West Virginia was entitled to pay, and among it were some scrip certificates for unpaid interest, all amounting I think to about \$3,000, and there was an exchange market value for them ranging all the way, I think, some of the interest scrip, perhaps as low as nine or ten per cent, and from that on up to I think, in the region of forty-two or forty-three for the best of it; it was a matter of perhaps in the neighborhood of \$3,000; that was all the bonds that came into my possession.

Q. Did any Jersey City bonds come into your possession? A. No, sir.

Q. Any Dry Dock railroad bonds? A. No, sir.

Q. State how this came out, or sell in comparison with the figures given for them in the last previous annual report of the bank? A. The previous annual report of the bank, from my recollection, the bonds were put in at par, and so stated; they did not assume to make a market value for them, I think; they brought in the same ratio the price I stated bears to the par value.

Q. How did the result of the sales compare with the estimate made by previous examiners? A. The Louisiana bonds brought more; I think the next were less.

Q. Taking it altogether, which way did it come out? A. The bonds that were left, I think, brought more than their appraised value, taking them in the aggregate, because the \$100,000 of Louisiana bonds was the great bulk of the bonds; these was more than half of them.

Q. Can you tell about how much? A. I cannot; because I never looked at the matter with a view of calculation.

*Isaac Smith*, being duly sworn on behalf of the State, testified as follows:

Examined by Mr. TRACY:

Q. Where do you reside? A. At Albany.

Q. What is your occupation? A. Clerk in the bank department.

Q. How long have you been in that bank department? A. A little more than twelve years.

Q. More than twelve years? A. Yes, sir.

Q. During the time while Mr. Ellis has been there, what has been your particular business in the department? A. Keep the journal accounts of the department, and examine the reports of the banks, and savings banks.

Q. What has been your practice, when a report came to your hand, to do with it? A. I examined it, and if I thought the bank was not weak, passed it; if I thought it was weak I showed it to the superintendent, and told him what I thought about it.

Q. Did you, in those cases, point out some statements and figures, and show him? A. In one case only, and that was because it was a very complicated affair.

Q. Was any other of the clerks charged with this particular duty of scrutinizing these reports and explaining them to the superintendent? A. No, sir; I do not know that I was charged with it.

Q. I mean you was the one that did it? A. Yes, sir.

Q. Had practical charge of it; which of the reports of this bank, the Third Avenue Saving's Bank, did you first examine in this way, in 1873? A. In July.

Q. In July, 1873? A. Yes, sir.

Q. You examined that, did you? A. Yes, sir.

Q. Page 471; in which the bank had a surplus of \$2,000; did you take up that report and examine it in detail? A. Yes, sir.

Q. Did you examine the schedule found on those pages, 472 and 473? A. Yes, sir.

Q. Did you make any communications to the superintendent about the result of your examination? A. I did not until about September, for the reason that the July report showed a surplus, but I was not satisfied with that, and in September I made calculations — taking the market value of the stocks as they were then in September, and allowing other assets as they reported them; I forget exactly, but I made statements on two bases; they will be in the papers that will be brought here.

Q. Those statements you gave to Mr. Ellis? A. Yes, sir.

Q. They are now among the papers being put together for the purpose of being brought here? A. They were yesterday.

Q. Mr. Lamb, another officer of the department had them to bring? A. Yes, sir.

MR. TRACY — Mr. President, Mr. Lamb was subpoenaed and is not here yet; I can explain why he is not here by the telegram from him, and the witness must speak of them from his memory.

Mr. MCGUIRE — I must object to any parol evidence without the papers.

The PRESIDENT — What is the object of making the statement to the court, Mr. Tracy?

Mr. TRACY — Mr. President, I have arrived at the point that I desire to examine this man about these statements in which he went through the examination of these things and developed the real condition of the bank, and laid them before the superintendent, showing the bank was in a very bad condition. Those papers we have called for by subpoena, and Mr. Lamb, who is the principal clerk in the office there, the deputy, has the charge of them and is prepared to bring them up, and Mr. Lamb got informed this morning, not from us, that he need not come this morning; but he informed us by telegram, which came to us ten minutes before ten o'clock, that he should come to-day at one o'clock, any way; but he had been told that he need not come this morning, and not from us.

Mr. MCGUIRE — Certainly not from me.

By Mr. CHAPMAN :

I will read the following telegram :

"Chapman here, and says I need not come this morning; I come at one o'clock to day any way.

" HENRY L. LAMB."

Mr. TRACY — I do not make any complaint about it; that is the reason why we are desirous in presenting at this time the documents.

The PRESIDENT — If the objection is made to parol evidence of what he presented to the superintendent in writing, the objection is good, of course.

Mr. TRACY — I will ask some other questions.

Mr. MCGUIRE — Mr. President, I object. If there is any written statement, that statement should be produced.

Q. You stated you did present this paper to Mr. Ellis in September, 1873? A. Yes, sir.

Q. About September? A. Yes, sir.

Q. Did you have any conversation with him, then, on the subject?

A. Only that relating to the paper explaining it.

Q. You explained it to him? A. Yes, sir.

Q. Can you recollect any thing that was said in the conversation between you and him? A. No, sir; it is too long ago.

Q. You were in the department when the examination of the examiners in March, 1875, came in? A. Yes, sir.

Q. What day was that brought into the department? A. I cannot tell you, sir.

Q. The papers will show it? A. Yes, sir.

Q. Was it the twenty-fifth of March; do you recollect that fact?

A. I think it was that time, or I think the examination was made at that time.

Q. The twenty-second or twenty-third? A. Yes, sir.

Q. Did you look into that? A. No, I did not look into that; that was a report from the examiners; I have not examined all those reports; they were sent to my desk.

Q. Did you call Mr. Ellis' attention to this report of the return of the examiners? A. No, sir; I believe not.

Q. Was there one of those papers upon which you made or found some pencil memoranda, and called his attention to them? A. The only pencil memoranda that I know of were statements I made myself in regard to the Third Avenue Savings Bank.

Q. You were in the office of the department when the gentlemen came from New York, in September, 1875, about the time the bank was closed? A. Yes, sir.

Q. You were? A. Yes, sir.

Q. Was Mr. Ellis there? A. He was.

Q. What gentlemen came? A. Ex-Governor Hoffman and the president of the Third Avenue Savings Bank; I have forgotten his name; and a Mr. Carman, the secretary, and I think Mr. Marcus T. Hun.

Q. A lawyer? A. Yes, sir.

Q. Gov. Hoffman was practicing law at that time in Albany? A. I understood so.

Q. What took place after these gentlemen came in? A. They went to Mr. Ellis' private office, and soon he came out and told me to tell the Attorney-General, Pratt, to come in, and he did so; and then Mr. Ellis asked me for the March report of 1875 made by the examiners; I got it for him.

Q. Did he take it to his room? A. Yes, sir.

Q. How long was he there? A. Probably half an hour, and I think Marcus T. Hun drew up the papers and the proceedings closed.

Q. Go on and state what happened as they came out? A. They came out into the larger room, and there was some conversation in regard to it, and Mr. Ellis made a remark at the time: "we stir the waters and the Attorney-General catches the fishes;" and I inferred from that — Mr. Ellis added that, at least — that he was taking these proceedings without an intervention by any one else, that he found the condition of the bank was bad, and he moved of his own accord to close it; and I asked Mr. Carman, whom I was acquainted with —

By Mr. McGUIRE:

Q. In the presence of Mr. Ellis? A. Yes, sir; I cannot say that he heard it, but I spoke loud enough; I asked Mr. Carman how they came to wind up; he said it was a movement by the trustees of the bank, by a resolution passed by them; and, so far as I was informed, that was the first intimation the department had that the bank was closed, or about to be closed.

Q. That was the 29th of September? A. I do not remember the day exactly; it was in September, 1875.

Q. Will you state what other clerks there are in the department besides yourself; give their names? A. Edgar A. Werner, Charles S. H. Ellis.

Q. A younger Mr. Ellis? A. Yes, sir.

Q. L. Werner, Lamb and yourself? Yes, sir.

Q. Those four? A. Yes, sir.

Q. That is the whole force? A. That is the whole force.

Mr. TRACY—If your honor please I have gone as far as I can, under the rule.

Cross-examination of *Mr. Smith*:

By Mr. McGUIRE:

Q. Who came into the department with Governor Hoffman? A. The two chief officers of the savings bank; the president and secretary.

Q. Did you hear any conversation between those gentlemen and Mr. Ellis, before they went into the private office? A. No, sir.

Q. Did you hear any conversation in the private office? A. No, sir.

Q. Did you hear the conversation, after the Attorney-General came in? A. No, sir.

Q. You have given us your inference of some things instead of the conversation; was that an inference founded upon any conversation that you heard there? A. No, sir.

Q. Can you state what relation existed between the Attorney-General, Mr. Hun and Gov. Hoffman at that interview? A. I cannot.

Q. Your recollection is that Mr. Hun prepared the papers there? A. Yes, sir; and, I believe, in the Attorney-General's office.

Q. Then the papers were not brought up, already made and ready to be placed into the hands of the Attorney-General, from New York?

A. I think not.

Q. Were the papers served on the same day that this interview that you have spoken of took place—the papers from the Attorney-



General upon the officers of the bank? A. I don't know any thing about the service of the papers.

Q. You have stated all that you recollect of that interview? A. Yes, sir.

Q. I don't know as I understand you correctly, Mr. Smith, that you inferred that Mr. Ellis was going to wind up the bank himself without the aid of the Attorney-General? A. I inferred from this remark, that he took to himself the credit of closing that bank without first being asked by the trustees to do so.

Q. That was an inference of yours? A. Yes, sir.

Re-direct examination :

By Mr. TRACY :

Q. There is a letter in these papers from Mr. Ellis to the Attorney-General, and dated that day, the twenty-ninth of September ; was that drawn by the gentlemen who were all there? A. I suppose so, but I was not present.

Q. You did not know of its existence then? A. No, sir.

Q. What time of day did the party arrive? A. In the morning, I should say rather early, by ten o'clock.

Q. Had any information come to the department, before their arrival, tending toward producing such a letter from Mr. Ellis? A. Nothing that I know of ; nothing in the department.

Q. So far as you know, that letter must have been written after they came there? A. Yes, sir.

Q. The letter to put the Attorney-General in motion by communicating with him, as I understand you, drawing the inference you did, when the superintendent had spoken, that he really had set the thing on foot, you asked Mr. Carman the question you did? A. That was the reason of my asking Mr. Carman the question I did.

By Mr. McGUIRE :

Q. The letter you speak of is the notice given by the bank department to the Attorney-General to commence proceedings? A. Yes, sir.

Q. That is what is called a "letter" here? A. Yes, sir ; application, I suppose.

Mr. TRACY — I will have to recall the witness when I get the papers here.

*Isaac H. Vrooman*, being duly sworn on behalf of the State, testified as follows :

Examined by Mr. TRACY :

Q. Where do you reside? A. Albany.

Q. What is your profession generally ? A. I have been engaged in the banking business, and have been admitted to practice law ; I was engaged in the banking business for twelve or fourteen years.

Q. Were you ever appointed one of the examiners by the superintendent of banks ? A. Yes, sir ; in 1873.

Q. By Mr. Ellis ? A. By Mr. Ellis.

Q. Have you been appointed examiner more than once ? A. Well, I suppose the examination extended over the time I was employed ; for every examination there was a new commission made out ; in some instances, there were three examiners ; in others, two.

Q. In each case a certain commission was made out for each bank ? A. Yes, sir ; named Mr. Reid, Mr. Aldrich and myself as examiners.

Q. Reid, Aldrich and yourself, were the examiners ? A. Yes, sir.

Q. Where was this ? A. The first examination I made was in April, 1873.

Q. Of this bank, the Third Avenue Savings Bank ? A. Yes, sir ; it was on the fifteenth and seventeenth of April, I think.

Q. Did you all three go to New York ? A. Mr. Reid resides in New Jersey, and Aldrich in New York, and I at Albany ; I went from Albany to New York.

Q. Had any part of the examination of the estimation of property or inspection of property been done by them before you arrived ? A. Yes, sir.

Q. What part was that ? A. Mr. Reid generally commenced the examination by counting the cash ; it appears they had been at work on the fifteenth ; I arrived on the fifteenth.

Q. You found the cash had been counted by them ? A. Yes, sir.

Q. Had they examined the real estate out of town, or mortgages ? A. No, sir ; I think they commenced the examination of mortgages after I arrived.

Q. State what was the mode of proceeding, while you were there, in the matter of making the examination ? A. Mr. Reid generally left schedules at the bank, two or three days previous to the examination, which the officers of the bank filled out.

Q. State it again ; that Mr. Reid usually left at the bank beforehand a schedule in blank to be filled up by them, indicating their property ? A. Yes, sir ; bonds and mortgages and securities, whatever they had ; then, when the examiner came there, they called for the bonds and mortgages to correspond with the schedule, and we examine them.

Q. And also the stocks ? A. Yes, sir.

Q. You looked at the securities themselves ? A. Examined each bond and mortgage, and examined the security ; sometimes the bank had the securities in their vaults, and sometimes in the safe deposit company.

Q. Did you see the securities of bonds and mortgages? A. Certainly.

Q. Find any other papers with them? A. Generally examined searches and estimate of value by some disinterested parties.

Q. Those appraisals were made when the loan was made? A. Yes, sir.

Q. They and the abstract of title and bonds and mortgages came to your notice? A. Yes, sir.

Q. You looked to see whether they were recorded? A. Yes, sir; to see that it was properly executed and recorded.

Q. Did you follow it through from one to an other bond and mortgage? A. Yes, sir.

Q. What did you do with the bonds or stocks? A. We examined and compared the stocks produced with the statements given, and arrived at the value by taking the quotations of the day previous.

Q. The newspaper quotations? A. Yes, sir.

Q. With that you found your guide in the public announcement of the quotations? A. Yes, sir; stock reports.

Q. You looked to see that the certificates of shares were there as bonds, whatever they were? A. Yes, sir.

Q. How long did it take you to perform the examination at the Third Avenue Savings Bank that time? A. I was there two days; it appears by memorandum that I have that the Atlantic Savings Bank was examined about the same time, because I was on the Third Avenue Savings Bank the fifteenth and seventeenth, and on the Atlantic the sixteenth, seventeenth and eighteenth of April.

Q. You were on both of those banks? A. Yes, sir.

Q. Some parts of one day must have been devoted to each of them, some of the time? A. Yes, sir.

By Senator STARBUCK:

Q. What evidence had you that the bank owned them and did not borrow them? A. We generally swore them. after we had finished the examination, that the securities produced were theirs and had not been borrowed for the occasion.

Q. Then a report was drawn up or sort of return? A. Yes, sir; Mr. Reid generally busied himself in talking with the officers how they were conducted and one way or another; Aldrich and myself didn't make such an examination of the books, as Mr. Reid did that himself.

Q. He was there the first day? A. Yes, sir; he styled himself principal examiner-in-chief.

Q. When you got through with all this, a statement was made up, or kind of return, and was that signed by you? A. Yes, sir.

Q. All signed it? A. Generally; there were some of the examinations I did not sign.

Q. In this case you signed it? A. I think I did.

Q. You have seen copies of that, know what it is, that return? A. Yes, sir.

Q. What do you say about the truth of it; was it a true return? A. I considered it was.

Q. Done with care; you believed it to be right at the time? A. I did; there was some controversy about the Tarrytown property; we did not know the value of that, and Mr. Reid and Aldrich went to Tarrytown afterward and examined the bank there, and they satisfied themselves as to the value of the property; I have no personal knowledge of what the property was worth.

By Senator WOODIN:

Q. That was after the report was made? A. No; before, I think.

By Mr. MCGUIRE:

Q. After the examination and before the report? A. Yes, sir.

Q. You relied upon those two gentlemen's views upon it? A. Yes, sir.

Q. Otherwise, you speak from what you saw in regard to the bonds and mortgages and securities? A. Yes, sir.

Q. That report of yours shows a deficit of \$5,735.01? A. Whatever the amount is, I do not recollect it, under the date of April 14, 1873.

Q. For your services in this capacity, did you receive an annual or monthly salary? A. I received a per diem while I was at work.

Mr. MCGUIRE—Mr. President, I object to that as immaterial.

The PRESIDENT—What is the object of the question?

Mr. TRACY—Mr. President, it is the duty of the bank to pay these things, and I want to inquire whether the bank paid it in this case or not. The law provides that the superintendent may exact payment of these things from the bank. I would like to know whether this gentleman got his pay from the banks, or whether it was charged to the department.

Mr. MCGUIRE—Mr. President, I object to the inquiry.

The PRESIDENT—Unless the counsel expects to prove concealment or evasion about it, I do not think it is competent.

Mr. TRACY—Mr. President, I do not think there is any concealment about it.

The PRESIDENT—Then I do not think the question is material.

Q. What was done with the report after it was thus completed?  
A. Mr. Reid forwarded it to the department; he took charge of the report.

Cross-examination of *Isaac H. Vroman*.

By Mr. McGUIRE:

Q. Can you state about the number of bonds and mortgages the bank then held? A. No, sir.

Q. The number? A. I don't recollect the number.

Q. Were there a large number? A. I don't recollect; I think the report ought to show.

Q. The report simply shows the aggregate amount, \$264,100; I desire to know if that was embraced in one or 100 mortgages? A. Probably more than one mortgage, but whether it was over 100 I could not say now; there were quite a number of bonds and mortgages.

Q. Can you tell whether those bonds and mortgages were originally given to the bank or assigned to the bank? A. I think they were all regular on their face; they were either given directly or assigned.

Q. They were either given to the bank as mortgages, or else there was a proper assignment from the mortgagee to the bank? A. Yes, sir.

Q. You examined far enough to see that? A. Yes, sir; we always examined far enough to see that they were properly in the hands of the bank.

Q. Do you not know it would be an utter impossibility with all the banks of this State for one, two or three examiners to go to every mortgagor or assignee and ascertain from him who owned the mortgage? A. I think it was.

Q. An impossibility? A. That would probably be impossible; we took the evidence that was produced of each mortgage.

Q. You took the evidence that the bank was the mortgagee on the face of it, or else owner by assignment? A. Yes, sir.

Q. In regard to the State bonds which you examined there, did you ascertain that the bank was the owner of these bonds? A. If they produced stock they must have either been in the name of the bank, or if they were bonds — government bonds — coupon bonds not being registered, the only evidence we had they belonged to them was the oath administered to them that they owned them.

Q. You performed all that you could do to require the officers of the bank to show who were the owners? A. Yes, sir.

Q. And not put in there for a fictitious purpose? A. Yes, sir.

Q. I see from the report you put in then, you put in the Tarrytown land at \$1,500 an acre in this report; do you recollect that?

A. I recollect there was quite a large amount of Tarrytown property.

Q. You put it in at \$1,500 an acre? A I don't recollect that part of it; there was some evidence produced before us as to the value; I stated (page 358 of printed testimony before the committee) there was "ninety-two acres of land at Tarrytown at \$1,500 — \$138,000."

Q. Then do you recollect that that was also secured by guarantee bonds of that amount? A. I do not.

Q. I see, in reading from this report, guarantee bonds on Tarrytown lands, \$138,000, and you also have in that report, following as revenue received from those guarantee bonds, \$9,660; do you recollect that?

A. I have no distinct recollection of the whole report only as it is there.

Q. You have no recollection, particularly, outside of the report itself? A. I have not.

Q. You can state that you made sufficient inquiries into the assets of these banks, properly and intelligently, to make this report to the superintendent? A. Yes, sir, I did.

Q. On page 362, in your written report, you stated "your examiners have reason to believe, from diligent inquiry and personal examination, that that portion of the real estate at Tarrytown is worth full as much as the officers estimated it in the assets?" A. That was arrived at by W. F. Aldrich on a previous or subsequent examination; I understand from Mr. Aldrich that he considered it worth what it was put in at.

Q. This report could not have been forwarded to the superintendent until after the seventeenth of May? A. I think not, from that memorandum.

Q. I see appended to the report by George W. Reid alone, dated May fifteenth? A. I notice that is there.

Q. I see, on page 358, the Tarrytown land is put in at \$1,500 an acre at first; on page 360, you will see "guarantee bonds on Tarrytown land \$138,000," the revenue derived from those bonds \$9,660; I call witness' attention to page 362, where they say, in their report "from diligent inquiry and personal examination, that that portion of the real estate at Tarrytown is worth full as much as the officers have estimated in their assets;" then, on pages 266, 267, 268 and 269, are the questions put to the officers of the bank? A. I presume this is a correct copy from the report; the report has a very large number of questions generally put to each managing officer of a bank.

Q. That business was principally managed by Mr. Reid? A. In the presence of the others; Mr. Reid principally, or Mr. Aldrich.

By Mr. TRACY:

Q. You have not stated how you got at the figures \$180,000, the

value of the banking-house; how did you get at that? A. I suppose there was some evidence produced that was satisfactory to us or we would not have put it in.

Q. You do not recall how it was done? A. No, sir.

Q. Whether you got it from observation? A. It may have been taken from the books.

Q. There is one item here in the assets of accrued interest; how did you get at that; that item of \$32,000? A. From the books; Mr. Reid did all that; he assumed to look at the books more particularly than Mr. Aldrich or myself; he busied himself with the accounts; looking over the books and taking statements.

Q. The item of \$100,000 guarantee fund, secured by bonds bearing seven per cent interest; were those bonds produced to you? A. They were individual bonds I believe, sir; of course they must have been produced or they would not have been put in.

Q. Were you present in court yesterday, when Mr. Smyth was examined? A. A part of the time; he produced a package of papers I recollect.

By Senator WOODIN:

Q. I see in this report he states "from a personal examination, as well as from inquiry, that portion of the real estate at Tarrytown is worth fully as much as the officers estimated it in the assets;" at the time he signed that report, you had not seen this real estate at Tarrytown? A. No, sir; I did not see it at all.

Q. Do you know that either of the others had seen it at that time? A. Mr. Aldrich has informed me since that —

Q. I ask you the fact whether they had seen that real estate? A. I did not know that he had until he informed me this morning.

Q. Do you know whether Reid had seen it? A. Mr. Aldrich said he and Mr. Reid went there and satisfied themselves of the value of the property.

Q. Prior to the time of making the report? A. Yes, sir.

Q. Is that matter of inference or actual knowledge on your part? A. It is information received from Mr. Aldrich.

Q. They went and examined the real estate in 1875, but whether they did prior to that? A. I cannot tell you.

By Senator STARBUCK:

Q. I would like to know whether or not the guarantors of these bonds are, to any extent, the trustees of the bank; whether or not this keeping up of the pretended value is secured by the trustees of the bank — they paying this \$9,660 per year revenue? A. I do not know, sir.

Q. How is that? A. I have no information upon that subject.

Senator WELLMAN — I can give the information the Senator seeks for, as it was obtained by the committee at their examination, if it is desired.

Senator STARBUCK — Is it in the book?

Senator WELLMAN — Mr. President, the information was obtained that the trustees of the bank pledged themselves for the payment of the interest or income upon the amount invested in the Tarrytown land, so that the income of the bank should not suffer from the investment, and that payment was kept up for some time by the trustees; after a time it ceased.

The PRESIDENT — The Senator from the Eighteenth asks whether the trustees were the obligors upon any of the bonds known as the guarantee bonds?

Senator WELLMAN — Mr. President, they were the obligors upon the matter of the investment in the Tarrytown property.

Senator STARBUCK — Mr. President, they are the persons who paid the \$9,660 per year?

Senator WELLMAN — Mr. President, yes, sir.

Senator SCHOONMAKER — Mr. President, I ask for a decision of the Senate upon the question decided a few moments ago. Since the question was put by the counsel for the State, it seems to me it may be an important and material inquiry to ascertain what amount of money has been paid by the savings bank for the examinations made. It appears by the last report laid upon our desks, and by one of the witnesses who testified here, that the amount paid by one bank in 1873 was \$175; at that rate the average amount runs up to nearly \$2,000 per year. These were certified to by the Banking Department. It seems to me it is material and important that this body should know how that branch of the business in this department is managed. We are investigating that department. It strikes me it is material we should know that, and for that purpose I ask that a vote of the Senate may be taken upon it, and I call for the ayes and noes.

Senator HARRIS — Mr. President, I differ with the Senator from the Fourteenth [Mr. Schoonmaker] in regard to our investigating the Bank Department. We are simply here to try the charges that have been laid before the Senate by the Governor. If among those charges there is a charge that the Superintendent of the Bank Department has been derelict or has used his office improperly in regard to the employment or the appointment of these examiners, and paid them too much, then, of course, the testimony would be material. But I do not remember that there is any such charge. The Governor's message to the Senate, and the documents which accompany them, are the subject-matters of inquiry, and it seems to me that we are not at



liberty to wander and try the department itself, as the Senator from the Fourteenth says, to find out how he has managed the department in other respects than those contained in the charges. I think the Senate is limited entirely and wholly to the charges against the superintendent contained in the Governor's message, and there being no charges of any impropriety on the part of the superintendent in regard to the appointment of examiners, or the certification of their fees, it seems to me that it is not a proper subject for the Senate to enter upon.

Senator SCHOONMAKER — Mr. President, I do not propose to go into any discussion of the subject. I rise simply to protest against this theory of want of jurisdiction of the Senate to try upon any thing except the charges specified in the communications from the Governor. I understand, sir, that there is no limitation upon the jurisdiction of this body, and that it would be a most fatal heresy for this Senate or for any body in a proceeding of this character to limit its own jurisdiction to the specific charges mentioned by his Excellency the Governor. The Governor need not send any charges. He can recommend the removal of this statutory officer, as provided by the statute, and then it devolves upon the Senate to institute its own inquiries. I have no facts upon which to base such a proposition, but let me suppose that the facts should be that this very officer had been guilty of the grossest corruption, and had taken, by virtue of his office, \$100,000 from the savings banks of this State, would the Senator say the Senate could take no cognizance of such startling fact as that, but that we must limit ourselves to some slight charge relating merely to the mode or manner of performing this statutory duty? I know the honorable Senator too well to believe for one instant he would hesitate to take cognizance of such a grave charge. Now here is a fact, that secret charges are made against savings banks. They are not reported to the Legislature. They are not made known to the people. Have we no right, a matter of public policy, to know what these charges are and what becomes of this money? I submit that question to the Senate.

Mr. McGUIRE — Mr. President, I supposed when the counsel for the State asked this witness what he received as his *per diem* for the examination, I thought it was immaterial, and taking up the time of the Senate unnecessarily, and I therefore interposed an objection; I was not aware it was going to provoke any debate, and, for the purpose of relieving the Senate of voting upon the question, I withdraw the objection.

Q. Did you receive your compensation for making this examination?

A. I did.

Q. What was it? A. I find a memorandum of \$109.50 received of

Mr. Reid by check on the Broadway National Bank; the nine dollars and fifty cents was for fare between Albany and New York; my regular compensation was twenty dollars per day; I received forty-three dollars and something for that examination; it was taken in connection with the Atlantic Savings; those two together make five days.

Q. You got twenty dollars a day on the examination? A. Yes, sir; Mr. Reid said afterward that Mr. Ellis objected to my expenses, and he said he did not want me paid more than twenty dollars a day; I wanted to be paid twenty dollars a day, and in going and coming, and he allowed it.

Q. All the way through, have you received twenty dollars a day? A. Yes, sir; all that I received over was the twenty dollars in Buffalo, and the nine dollars and fifty cents.

Q. How was Aldrich paid? A. I presume the same; I have no personal knowledge in regard to his compensation.

Mr. MCGUIRE — Then I object to that.

Q. Do you know how much was paid by the savings bank for these examinations? A. Only in a few instances.

Senator LOOMIS — Mr. President, I object to that, on the ground stated by the Senator from the Thirteenth [Mr. Harris]. In my present state of health I am not able to make an argument.

The PRESIDENT — The ruling of the chair was upon the ground that no reference has been made in the charges to any matters relating to the charges of the employees of the department, and it was understood from the expressions made here in the Senate, that the Senate would not go beyond the charges in this examination, and, therefore, until a distinct direction has been had by the Senate, the chair felt bound not to admit the testimony. The Senator from the Fourteenth [Mr. Schoonmaker] asks that the testimony be received. The question is: "Shall the testimony be received?"

Senator BRADLEY — Mr. President, the question presented now, is simply one of propriety, and not one of power. The idea will not be entertained, I apprehend, by any Senator, that when assembled for the purposes for which we are assembled here, that we have not the power — the jurisdiction — to make an inquiry into the action of this officer, whether contained in the Governor's message or not. And a question of duty arises which seems to me overcomes, to some extent, what may be deemed one of the proprieties by some of the Senators. We owe a duty to the public. Here is an officer charged with important duties in which thousands are interested; and, if he is not a man to occupy that place and perform the duty for the protection of those great interests, the Senate, it seems to me, should make the inquiry. I assume this motion is made by the Senator from the Fourteenth, for the pur-

pose of making an inquiry into this subject. There is no law, as I understand, requiring the superintendent to expose in his report the moneys received for examination of banks by the examiners. This is a matter entirely in his discretion, and whether any thing has been done by the superintendent which would reflect upon his conduct, upon his integrity, it seems to me it is a subject that should be inquired into; and, as I understand the counsel for the respondent withdraws his objection to this investigation in that respect, relying, of course, upon the integrity of his client, I think we should make a thorough and full investigation of any thing that relates to the character of the accused. It seems to me we should take this testimony.

Senator STARBUCK — Mr. President, we have learned that one of the three examiners received twenty dollars per day. Now, suppose the counsel were prepared to say, "what I propose to prove is that the three examiners, for examining this bank, were paid \$300" (or any other sum), and suppose he was prepared to say, "I propose to prove that the circumstances under which this transaction was had, are such that I am going to ask the Senate to find that an exorbitant charge made in behalf of one examiner was colorable only, and it really was the money of widows and orphans, transferred through this irregularity to the superintendent himself." Is there a Senator who would reject it. For myself, I would hear it.

Senator HARRIS — Mr. President, I will not take up the time of the Senate in any extended remarks upon a question like this. I simply propose now to answer one or two suggestions that have been made, and the first is, that the proper mode of proceeding in case this officer, the superintendent of the bank department, has been guilty of any impropriety in respect to the appointment of the examiners, or the certifying to their pay, is for any Senator or any citizen of the State, who knows of any impropriety on the part of this officer in that respect, to lay his charges before the Governor, and the Governor communicate that he, in his judgment, thinks proper to communicate to the Senate. He can do that to-day. He can do it at any time, and that is the proper mode of proceeding. That is the mode in which we are assembled here to-day. We are assembled on the proclamation of the Governor, who sends to us certain charges against this man. This matter is not insinuated. It is not alleged by any one that there has been any impropriety on the part of the superintendent in regard to the examiners or their pay, but it is, to speak in common parlance, a mere fishing operation to find out what has been done here. No one alleges — no one has alleged — not even the counsel for the prosecution, that there is any thing improper; but it is merely an inquiry, and after we have got through such an inquiry as that in regard to examiners, we can start an inquiry in regard to his clerks,

an inquiry in regard to his stationery, not that there has been any charge here that there has been any impropriety, but, under the sweeping idea that we can inquire into any thing, that sitting here as a Senate, with certain charges before us, that we can inquire into any thing outside of those charges; we might as well have used the few days we have spent upon joining issues in taking testimony, and spent it usefully; for what was the occasion of this long preparation about charges and answers if we are not confined to the issues thus joined? It was entirely useless, if the idea of the Senators from the Fourteenth, Eighteenth and Twenty-seventh is correct that we are not confined to those issues at all, but can wander anywhere, without any danger of any impropriety and can examine into any thing. I protest against any such idea as that; we are here to try the charges sent us by the Governor, and nothing else.

Senator COLE—Mr. President, I desire to say for myself that I concur most heartily in the suggestion made by the Senator from the Fourteenth, that the Senate have the power, but we have laid down a rule by which we are to be governed. Charges have been made against the Superintendent and laid before the Senate, and we are here, after several days, with the full knowledge of the charges as alleged. Now, sir, it seems to me that we had better confine ourselves to the issues that are made, and that, while doing that, we do not recognize a principle or a precedent, as the Senator says, that shall go out here; we have not the power. We have the power; but the question is, after having settled a question, shall we take up that power? Shall we exercise that power? Is there any necessity for it? Is it right on the part of the Senate? Is it right toward the individual who stands accused? I think not.

Senator GERARD—I recognize, sir, the jurisdiction and right of the Senate to go into this inquiry as regards all the savings banks of the State, but I find in this inquiry an entirely new issue presented for our consideration, and from what has been presented to the accused for a defense, I think there is a propriety and a justice in letting him know beforehand the charge upon which he is to be tried. The one now under consideration has never been brought to his notice or attention. He is now absent. I don't think, under the circumstances, there is a propriety in going into this matter; therefore, I shall vote in the negative upon this proposition.

The President submitted to the Senate the question, whether the testimony should be received and it was decided in the negative.

The Senate hereupon took a recess to five o'clock P. M., July 25 1877.

SARATOGA, *July 25, 1877.*

The Senate reconvened at five o'clock, P. M. — a quorum present.

*Abraham Sellers*, being recalled on behalf of the Senate, testified as follows:

Examined by Mr. TRACY:

Q. What was the cost of the banking-house of the Third Avenue Savings Bank as you ascertained it from the books? A. Upon examination by both Mr. Reid and myself, when we first took charge of the bank, we figured up, as near as we could, the proper items of the cost of the building, and we found it to be about in the neighborhood of \$80,000.

Q. How much? A. About \$80,000.

Mr. MCGUIRE — Mr. President, I submit this wholesale swearing will hardly do; we are entitled to know all the items.

The PRESIDENT — Undoubtedly, you are.

The WITNESS — I shall have to send to New York for another book before I can give all the items.

Q. Turn to the book where that account is standing; turn to the item in the ledger of April 3, 1868, and read what that item is. A. The bank building is debited with \$100,000.

Q. What is the item? A. *Profit and loss* is credited, and the bank building debited with \$100,000.

Q. What date is that? A. April 3, 1868; it reads: "Increased valuation of real estate owned and occupied by the bank, \$100,000; real estate debtor to profit and loss, \$100,000; increased valuation of property owned and occupied by the bank;" it was added into the cost of the bank building.

Q. What was the date? A. April 3, 1868.

Q. Was that at the time the bank was completed? A. This was after the bank was completed.

Cross-examination of *Mr. Sellers*:

By Mr. MCGUIRE:

Q. Do you know who was Bank Superintendent in 1868? A. I do not; I think it was Mr. Howell.

Q. Do you know that George W. Schuyler was? A. I do not know.

Q. I did not know but your books would show who the Bank Superintendent was? A. The books don't show any thing of the kind.

Q. Don't the books of the bank show that report was made to George W. Schuyler in 1868? A. I should not be surprised; I haven't them here; I don't know.

Q. It was then returned at \$180,000? A. Yes, sir.

Q. And returned every year from that time down to 1875, at \$180,000? A. There or thereabouts; yes, sir.

Q. All through the administrations from 1868 down to 1875? A. Yes, sir; it was returned with that \$100,000 added.

Redirect examination of *Mr. Sellers*:

By Mr. TRACY:

Q. Have you made any further figures about the deposits? A. Yes, sir.

Q. Give them? A. Between the twenty-second of March, as I understand the question, and the twenty-ninth of September, there was deposited in the bank \$319,537.12; there was drawn out during that time \$433,978.58.

Q. Those figures cover all the deposits? A. Yes, sir.

Senator WOODIN — Does it appear what proportion of the new deposits between those periods were drawn out?

Mr. TRACY — Yes, sir.

By Senator ROBERTSON:

Q. During what time? A. Between the twenty-second of March, the date of the last report to the Bank Department, and the 29th of September, 1875.

By Senator KENNADAY:

Q. Mr. Sellers, do you know when the bank building was completed? A. I do not, sir; there is no way of telling that accurately, for bills probably came in five or six months afterward.

Q. Do you know generally about the time? A. I should judge the building, from the appearance here, was completed some time in 1865 or 1866.

Q. Do you know when the ground was purchased? A. The first payment on the ground was in 1863.

Q. Do you know the area of the ground? A. I don't know the size at all it is.

Q. What was the price paid for the ground? A. Eleven thousand one hundred and fifty dollars, as it appears by those books.

By Mr. MCGUIRE:

Q. I would like to make an inquiry, as it is suggested that further books may be required; will you state, Mr. Sellers, what books you found in the bank when you took possession? A. I found what was considered, I suppose, a complete set of books.

Q. Books that belonged to that bank? A. Yes, sir; that is to say, a complete set of cash books, ledgers, etc.

Q. How many of each? A. I don't remember; there are three ledgers that I know of; five journals and three or four cash-books, and then any quantity of dealers' ledgers and books appertaining to the inside management of the bank; cart loads almost of those.

By Senator STARBUCK:

Q. Have you looked any further to see how much was the deposit after March 22, 1875, up to September 29, 1875, and how much of that new deposit was drawn out? A. I have given that; I gave that this morning.

By Mr. McGUIRE:

Q. How many ledgers did you say? A. Of the general ledgers, as they are called, there are three.

Q. How many cash books? A. I don't know how far they ran; I think they ran to No. 5.

Q. And what you called the depositors' ledger? A. There were a great many of them; the ledgers ran from one to number nine; attached to almost all of them there are duplicates, and I suppose there are, at least, twenty of the depositors' ledgers.

Q. Did you ever go through those books? A. We took a balance sheet off of all those books for our own guidance.

Q. How long were you engaged in taking a balance sheet off? A. I suppose, at least, in perfecting it three months.

Q. How many assistants had you examining the books of that bank? A. One.

Q. Spending pretty generally the whole of your time at it? A. Yes, sir.

Q. That was merely to get a balance sheet? A. That was merely to ascertain how near the actual statement of the debts due to the depositors agreed with the former statement.

Q. To get a general idea of the books? A. Yes, sir.

Q. And accounts? A. Yes, sir.

Q. Did you also examine the securities upon hand; you had appraisers, I see; but, in addition to the acts of the appraisers, did you yourself take time to examine and compare your securities? A. Yes, sir; the number of bonds and mortgages and all that.

Q. How long were you engaged at that? A. That didn't take a great while.

Q. How long were those appraisers engaged in the business that were paid \$1,500 apiece for their services — engaged in appraising the

assets of those banks? A. I could not tell you ; I think from two to three weeks.

Q. Not longer than that ? A. I don't think they were over three weeks.

Q. How many books have you, as receiver, that you had entries upon? A. Cash-book and journal, or cash-book and ledger.

Q. You said this morning you could give more perfect information if you had certain books here? A. Yes, sir.

Q. What book do you refer to? A. The books of the receiver.

Q. The cash-book? A. The cash-book and ledger of the receiver.

Q. Those books contain the names of the purchasers of this property? A. Yes, sir.

Q. And also the papers in which the advertisements appeared and the length of time the advertisements ran? A. Our counsel has all that; Mr. Smythe has all that; copies of papers and advertisements.

Q. You have the originals? A. No; the counsel has all that.

Q. Can you form any estimate what time it would have taken Mr. Sellers to have taken these accounts and vouchers, and made the comparison for the purpose of verification as to the number of these books of this bank, and also the entries and all the securities? A. I don't know that I exactly understand the question, sir.

Q. As an expert, have you examined these books, and can you give us some idea of the length of time it would require to have looked over all the entries of the books and the vouchers, and to have made the comparison for the purpose of verification? A. Even as far as the dealer's ledgers are concerned?

Q. Yes? A. It would have taken a long time.

Q. What time? A. I should think it would take two men, to go to the bottom of the thing, four or five months.

Q. You made a remark this morning, in answer to some question, that it would take two or three years to do something; what was that that you had reference to? A. I don't remember what that was; I am speaking now of open accounts; yes, sir; I remember what the question was.

Q. I am speaking not of open accounts; I am speaking of all the entries in these books, of their character? A. I would not undertake to do it in a year, to go to the bottom of it.

Q. You could not have formed a perfect estimate of the condition of the bank; unless that was done, could you? A. Well, no; that is another question, I think, decidedly; the bank keeps, all banks keep, a balance sheet of the individual ledgers which, added up, should agree with the general ledger; they are called "proof-books;" those proof-books, added together, should agree exactly with the general ledger.



Q. If they do not? A. Then it would take a long time to do it.

Q. It appears they do not; in this case there was a deficiency of \$66,000? A. That could be told in twenty papers.

Q. If they had all the papers, wouldn't you have to verify the proof-sheets? A. The proof-sheets are supposed to be correct.

Q. When you are employed as an expert to ascertain the condition of a bank, you do not take the papers that the bank furnishes as absolute verity, do you? A. I would, in all instances, take the footings of the proof-books.

Q. Would you take the names to ascertain if those proof-sheets were correct or not; or whether there were any false entries there? A. Unless it was pointed out to me, or else it was told to me to hunt up something of that kind.

Q. When you are employed as an expert to examine books, unless there was some false entries pointed out to you, or you were requested to look for some false entries, you would accept the proof-sheets of the bank as evidence of what they contained, would you? A. Yes, sir; if I was appointed to examine a bank, I would go first into their book-keeping, and that would be the very first question I would ask, in going into the bank, whether their individual ledgers and general ledgers agreed; I would ask for their proof-books, and if their proof-books and general ledgers agreed, I should have to take it as an answer to the question that the thing was correct.

Q. Then you would rely upon what they told you as to the system of keeping books, and if they furnished you with a proof-sheet, and that corresponded with what they told you, then you would assume that the information and proof-sheet were correct? A. No, sir; I would say this: I would ask for their proof-books, and compare them with the general ledger, and if they agreed on a cursory and general examination, I would have to take that, as a matter of course; if this did not, I would have had to begin again to find it out.

Q. And that would have taken you a long time? A. A great while.

Q. The books that you have spoken of in regard to the entries, sales of the real estate and the purchasers, have you any objection to furnishing them? A. None at all; I will give you a list of them; the name of each purchaser and the price each property brought, and the names and residences.

Q. Could you also furnish the paper of the publication of the notices? A. Yes, sir.

Q. And the length of time they were advertised? A. Yes, sir; I will send that up to you at any time you may desire.

Q. At your earliest convenience? A. I will send them up, and take a memorandum of it now.

Mr. CHAPMAN — Mr. President, I wish to make a single remark in relation to a telegram which I hold in my hand ; I understand that this morning, in my absence, some suggestions were made here, which tended to indicate that I had been attempting to keep the witnesses of the people improperly away from this court ; it is proper I should say, in connection with this matter, that last night, just before retiring, I sent a telegram to Mr. Lamb that he need not come here this morning ; that he could come up with me on the one o'clock train ; that we would be in time. It seems the messenger could not get the dispatch off, and without knowing any further about it, he met Mr. Lamb at the depot, and verbally reported to him that he need not come up here. I did not know at that time, as Mr. Lamb subsequently tells me, that Mr. Tracy had had any communication with him in the nature of asking on his part, asking a postponement so far as he was concerned. I assumed, when I sent the telegram, that he had been subpoenaed for this morning, and I then assumed that the attention of the Senate would be occupied this forenoon and during this morning's session, beyond any question, with these books and papers, and that the Bank Department men would not be reached under any circumstances until after dinner ; and, as an old friend, I wanted his company along up, and suggested it would be just as well for the men to remain, so far as he was concerned, and to Mr. Smith, that it would be just as well for them to remain in the Bank Department this forenoon, and to not take them away, because they could not be reached. That is all there is of it. I did not have any idea of interfering with my friend's witness.

The PRESIDENT — It is not deemed any interference on the part of the counsel at all.

Mr. CHAPMAN — It is a thing I would not do under any circumstances.

The examination of Mr. *Sellers* resumed.

By Senator SCHOONMAKER :

Q. Mr. *Sellers*, are you able to state, from your examination of the books of the bank in question, what moneys were paid out during the year 1875, other than drawn out by depositors ? A. Yes, sir.

Q. Can you give the aggregate ? A. No, sir ; not without a long calculation ; there is an every-day entry of depositors ; outside of that, there is not a great deal.

Q. The inquiry is, what amount of money was paid out by the bank, during the year 1875, other than the money drawn out by depositors ? A. That involves a great many accounts ; it will amount to a great deal of money, because stocks and bonds and mortgages were bought.

Q. I do not mean money paid for purchases of security, but for disbursements of the bank.

Q. Do you mean just the expense account? A. Yes, sir.

Q. Yes, sir? A. I can tell that; the whole year 1875 I can tell; there is charged up to expense account here, in various items, from January, 1875, to the closing of the bank, \$3,400.

Q. Does that include salaries? A. No, sir; in salaries, \$2,464.08.

Q. Do the books show a miscellaneous account? A. No, sir; they did not keep any thing but a salary account and an expense account, both of which were charged to profit and loss at the end of every six months.

Q. Is it there charged to profit and loss? A. Both of those were; I do not know what else was charged to profit and loss.

Q. Does that include taxes? A. Yes, sir; all expense account from March to September, \$2,742.67; all salaries, \$1,466.64.

By Mr. MCGUIRE:

Q. Three thousand four hundred dollars in the aggregate of the expense account as you have mentioned; how much of that is for salaries paid to officers? A. Nine hundred and forty-nine dollars and ninety-eight cents; they kept a separate salary account up to the first day of June; they then balanced that salary account and commenced charging their salary to expense account.

Q. Is that also included; this last item of receiver's matter, three dollars and twenty-three cents? A. Yes, sir.

Q. That goes to make up the \$900? A. No, sir.

Q. Then deduct that and see what the actual expense is after deducting the original receiver's matter out of it. A. The receiver's matter—I don't know what that means; that is something before September twenty-ninth.

Q. See what the actual expense account is? A. Two thousand one hundred and twenty-seven dollars and sixty-eight cents.

*Isaac Smith*, being recalled on behalf of the State, testified as follows:

Examined by Mr. TRACY.

Q. Have you received now from Mr. Lamb the paper that you spoke of when on the stand before? A. Mr. Lamb has it here. [Paper produced.]

Q. Is this the paper which you prepared, which you described this morning? A. Yes, sir.

Q. State when it was prepared? A. I think about September, 1873.

Q. Describe what is the first page of this partly in ink? A. This is a copy of the report of July 1, 1873; the part in ink on the first page is a copy of the report of the 1st of July, 1873, made by the bank.

Q. The pencil marks are by you? A. Yes, sir.

Q. State what the other papers are, following that? A. This paper is the statement of the condition of the Third Avenue Savings Bank, July 1, 1873; "value of real estate allowed, as shown by report of examiners April 14, 1873, and value of stocks at their quoted market value, September, 1873;" I took it from the report of the examiners in April, 1873.

By Senator HARRIS:

Q. You took the value that they reported? A. Yes, sir.

Q. What else is on that second page? A. Statement of condition of Third Avenue Savings Bank, July 1, 1873; value of real estate allowed, as shown by report of Examiner Keyes, 1871, and value of stocks at their quoted marked value September, 1873.

Mr. TRACY—I desired to put the papers in evidence, but I wanted it understood what they were; I would like to put these papers in evidence in connection with some testimony I shall offer.

Q. When this paper was prepared, what did you do with it? A. I showed it to Mr. Ellis in his private office.

Q. Did he look at it? A. Yes, sir.

Q. Was there a conversation between yourself and him about it at the time? A. Yes, sir.

Q. Go on and state it? A. It was mostly by way of explanation, explaining the manner in which the statement was made up and the object; to get at the approximate condition of the bank at that time.

Q. Do you mean you made explanations to him of how you had done this work? A. Yes, sir.

Q. And how you had arrived at the result? A. Yes, sir; and the pencil mark on there I read to him.

Q. You may read that, and let the stenographer take it down.

The witness read as follows:

STATEMENT of condition of the Third Avenue Savings Bank, on the 1st of July, 1873, as shown by the report of the  
 ■ bank to the department.

	Rate of interest.	Par.	Rate. Market Value	Market value.	Totals.
RESOURCES.					
Bonds and mortgages .....	....	.....	....	.....	\$274,100 00
STOCK INVESTMENTS.					
Louisiana State .....	8	\$100,000 00	Par.	\$100,000 00	
Georgia State .....	7	50,000 00	Par.	50,000 00	
Alabama State .....	8	68,500 00	Par.	68,500 00	
Kansas State .....	7	155,000 00	Par.	155,000 00	
Virginia State .....	6	3,500 00	Par.	3,500 00	
Jersey City .....	6	43,000 00	Par.	43,000 00	
Dry Dock, East Broadway and Battery R. R. Co. bonds..	7	20,000 00	Par.	20,000 00	440,000 00
REAL ESTATE.					
Banking building and two lots, cost .....	....	166,651 95	....	.....	
Value over cost .....	....	13,348 05	....	.....	
Furniture and fixtures ....	....	15,033 63	....	.....	
				\$195,033 63	
Nine houses and lots .....	....	.....	....	275,000 00	608,033 63
Tarrytown property .....	....	.....	....	138,000 00	36,997 82
Cash in banks .....	....	.....	....	.....	21,042 91
Cash on hand .....	....	.....	....	.....	

## STATEMENT — (Continued.)

	Rate of Interest.	Par.	Rate. Market Value.	Market value.	Totals.
Bonds of trustees.....	7	.....	....	.....	\$100,000 00
Other assets, items not reported.....	....	.....	....	.....	32,455 60
					\$1,512,629 96
LIABILITIES.					
Due depositors.....	....	.....	....	.....	1,505,418 58
Surplus.....	....	.....	....	.....	\$7,211 38

NOTE.— That in pencil mark was as follows: “The item \$608,033.63 exceeds the value of the same property, as stated January 1, 1873, \$32,752.75. Add difference between surplus, January 1, 1873, and July 1, 1873, as shown by reports of the bank, \$8,448.37, and there appears to have been a real loss during the six months ended July 1, 1873, of \$41,201.12. To this sum add depreciation of stocks, September, 1873, \$70,250, and the total loss appears to be \$111,451.12.”

Q. Read the second statement? A. [Witness read as follows]:

STATEMENT of condition of Third Avenue Savings Bank, July 1, 1873, value of real estate allowed, as shown by report of Examiner Keyes, 1871, and value of stocks at their quoted market value, September, 1873.

	Rate of interest.	Par.	Rate, M. V.	Market Value.	Totals.
<b>RESOURCES.</b>					
Bonds and mortgages.....	....	.....	....	.....	\$274,100 00
<b>STOCK INVESTMENTS.</b>					
Louisiana State .....	8	\$100,000 00	55	\$55,000 00	
Georgia State .....	7	50,000 00	89	44,500 00	
Alabama State.....	8	68,500 00	*80	54,800 00	
Kansas State .....	7	155,000 00	....	155,000 00	
Virginia State .....	6	3,500 00	50	1,750 00	
Jersey City .....	6	43,000 00	90	38,700 00	
Dry Dock, E. Broadway and Battery R. R. Co. bonds ..	7	20,000 00	....	20,000 00	
<b>REAL ESTATE.</b>					
Bank buildings .....	....	14,980 88	....	.....	
Furniture and fixtures .....	....	180,000 00	....	\$150,000 00	
Lot adjoining.....	....	20,000 00	....	10,000 00	
Tarrytown property .....	....	138,000 00	....	100,000 00	
Fifth avenue property.....	....	247,300 00	....	185,000 00	
Cash in bank .....	....	.....	....	.....	445,000 00
Cash on hand.....	....	.....	....	.....	36,997 82
					21,042 91

\* Asked.

## STATEMENT — (Continued.)

	Rate of Interest.	Par.	Rate, M. V.	Market Value.	Totals.
Individual bonds of trustees.....	....	.....	....	.....	\$100,000 00
Other assets, items not reported.....	....	.....	....	.....	32,455 60
LIABILITIES.					
Due depositors.....	....	.....	....	.....	\$1,279,346 33
Deficiency .....	....	.....	....	.....	1,505,418 58
					\$226,072 25

Q. Now, the third statement? A. [The witness read as follows]:



STATEMENT of condition of Third Avenue Savings Bank, July 1, 1873, value of real estate allowed, as shown by report of examiners, April 14, 1871, and value of stocks at their quoted market value, September, 1873.

	Rate of interest.	Par.	Rate. Market Value.	[Market Value.	Totals.
<b>RESOURCES.</b>					
Bonds and mortgages.....	....	.....	....	.....	\$274,100 00
<b>STOCK INVESTMENTS.</b>					
Louisiana State.....	8	\$100,000 00	55	\$55,000 00	
Georgia State.....	7	50,000 00	89	44,500 00	
Alabama State.....	8	68,500 00	*80	54,800 00	
Kansas State.....	7	155,000 00	....	155,000 00	
Virginia State.....	6	3,500 00	50	1,750 00	
Jersey City.....	6	43,000 00	90	38,700 00	
Dry Dock, East Broadway and Battery R. R. Co. bonds....	7	20,000 00	....	20,000 00	369,750 00
<b>REAL ESTATE.</b>					
Banking building.....	....	180,000 00	....	.....	
House and lot adjoining .....	....	20,000 00	....	.....	
Furniture and fixtures.....	....	14,980 88	....	.....	
Nine houses and lots .....	....	.....	....	\$214,980 88	600,280 88
Tarrytown property -- ninety-two acres.....	....	.....	....	247,300 00	36,997 82
Cash in bank.....	....	.....	....	138,000 00	21,042 91
Cash on hand .....	....	.....	....	.....	

\* Asked.

## STATEMENT — (Continued.)

	Rate of interest.	Par.	Rate. Market Value.	Market Value.	Totals.
Bonds of trustees .....	....	.....	....	.....	\$100,000 00
Other assets, items not named.....	....	.....	....	.....	32,455 60
					<hr/>
					\$1,434,627 21
Due depositors.....	....	.....	....	.....	1,505,418 58
Deficiency.....	....	.....	....	.....	<hr/>
					\$70,791 37

Q. The document which you have now read, containing three pages, was prepared by you ? A. Yes, sir.

Q. The first page of it in ink that you read exhibits the securities of the bank on the first of July as made by itself ? A. Yes, sir.

Q. And the second page is a re-examination of that year, changing certain values according to the stock valuation for the time ? A. Yes, sir.

Q. How was the third one ? A. The third one was the same ; I believe you will find the only change in that is in the real estate.

Q. On what basis did you change the real estate between the two ? A. One shows that it was from the examiner's report of 1873, in April, I believe — and the other was Mr. Keyes' examination in 1871.

Q. That makes the difference between the two ; the second and third report ? A. Yes, sir.

Q. By each of them you made out the deficiency \$226,000 and \$70,000 and odd on the other ? A. Yes, sir ; I would like to state, though, there may have been some changes in those assets in those times that I would not have found here ; I had simply to take the report of July, and assume they had the same real estate shown previously ; that will be found on pages 477 and 478.

Q. You presented this paper to him, and talked it over with him ? A. Yes, sir.

Q. Was there any thing said about closing the bank at that time ? A. No ; I don't recollect that there was any thing said at that time.

Q. Any thing said about its being insolvent ? A. I don't think that is necessary, so I don't think any thing was said about it.

Q. After this interview was any thing done about that bank in the department ? A. I believe there was nothing done.

Q. Was there any special examination ordered after that ? A. Not that I ever heard of.

Q. When next was it examined ? A. I think the next examination occurred in 1875.

Q. That was the regular examination, once in two years ? A. Yes, sir.

Q. The regular examination was the next one ? A. Yes, sir.

Q. Nothing was done that winter ? A. I believe not ; the records will show.

Mr. McGUIRE — Mr. President, I hardly know how to examine this witness without having an opportunity to examine this paper by comparing it with these reports.

Mr. TRACY — Mr. President, I beg to say it has all gone into the stenographer's minutes, and will appear in the printed testimony.

Mr. CHAPMAN—That is precisely the point. A very great deal of this evidence Senators can readily see from this printed book. Indeed, all the evidence taken down by the stenographer, unless it is printed so that we can have it before us, we are not able to analyze.

The PRESIDENT—It is printed with all the rapidity that is possible.

Mr. CHAPMAN—The only point in regard to it is, whether we are going to have it in time so as to look it over and compare it with the report and analyze it, so that we can make an examination.

The PRESIDENT—The paper is before you, and the witness has stated its contents in full. Have you any questions to ask of the witness?

Senator BRADLEY—Mr. President, I would like to ask the witness a few questions.

Q. What induced you to make this examination and statement?

A. Because I knew the bank, or at least I believed from the report of the examiners, and their own report to our department, that the bank was insolvent—absolutely insolvent—and that I could present it in better form to the superintendent in that way than I could by any conversation, and it was rather complex, too.

Q. Did you have any circumstances that suggested to you the propriety of making an examination, except what you derived from the reports of 1871 and 1873? A. No, sir.

Q. Was it a subject of conversation in the office? A. Yes, sir.

Q. In the Banking Department? A. Yes, sir.

Q. In the presence of Mr. Ellis? A. That I cannot say.

Cross-examined by Mr. MCGUIRE:

Q. Did you suppose you could make a more accurate report than special examiners that had been appointed? A. No, sir; and I did not try to.

Q. Did you take the report of the examiners in making this last paper that you have read? A. I believe I took the report of the examiners of 1871, as to the real estate.

Q. I am speaking of the last paper that speaks of the examination made in 1871; did you take that examination of the appraisers as your guide? A. As far as real estate is concerned, in one case.

Q. Did you change the real estate at all? A. No, sir—well, changed it from their report as taken by their report of July 1, 1873.

Q. Did you change the amount or valuation put upon real estate by the examiners in 1873? A. No, sir; I just stated I took the figures.

Q. What then did you change of values made by the examiners in 1873? A. The stock; stock and the bonds.

Q. Then your examination was to see whether the stocks were as valuable in September as they were in the preceding April; is that it?  
A. No, sir; I did not care any thing about the value of the stocks; my object was to show the condition of that bank, as nearly as I could, in September.

Q. You have stated that; I wish you would answer my question; I want you to state in what way you changed the value of stocks? A. I changed them as contained in the market values.

Q. Did you have an idea the special examiners did not give the true value of the preceding April? A. No, sir.

Q. Then what induced you to change it? A. I didn't change their values in April; their values in April were probably different from what they were in September.

Q. I understood you that you took their figures of the real estate?  
A. Yes.

Q. Now, do you mean to be understood that you took their figures on the stock or State bonds, or did you change those? A. I did not take their figures nor did I change any of their figures.

Q. Did you, in ascertaining the assets, or attempting to ascertain the assets of the bank, fix the same value of stocks and State bonds that the special examiners had two months preceding? A. No, sir.

Q. What induced you to change it? A. As I stated in there; I wanted to show the condition of the bank, in September, 1873.

Q. What induced you to change those figures if you did not regard yourself as more competent to make the examination and the special examiners?

Mr. TRACY — I will object to the learned gentleman's assuming a fact which has not been proven; he says he did not change their figures, but put in his own, on their then present valuation.

Mr. McGUIRE — What I mean by a "change," is not following their figures.

The PRESIDENT — He means to ask why the witness did not take the figures of the examiners.

Mr. McGUIRE — Take the values of real estate; did not take the values of stocks.

Q. I want to ask you what induced you not to take the values of stocks as fixed by the special examiners? A. Because I wanted to show the condition of that bank in September, 1873, and not in April, 1873.

Q. Did you have any reason to suppose that the examiners in April, 1873, had put a fictitious value upon the stock? A. No, sir.

Q. Did you assume then that such was the value as fixed by them when made by the examiners? A. No, sir.

Q. You did not take any means to ascertain then what the value

was in April? A. I did not want to know; that was the reason I did not.

Q. You did not want to know? A. No; I had no object in knowing.

Q. You saw from that special report made in April that the special examiners reported a deficiency of between \$5,000 and \$6,000? A. I have forgotten the amount; I think it is stated there.

Q. Five thousand and some odd dollars; don't your figures show it that you made? A. I don't remember the figures in pencil memoranda; probably they do show it.

Q. Five thousand seven hundred and thirty-five dollars and one cent; you recollect now of seeing the deficiency as reported by the special examiners? A. Yes, sir.

Q. That examination you were not inclined to follow? A. No, sir.

Q. You thought you could improve upon it? A. No, sir; made no attempt to.

Q. Do you know whether there was any difference in the value of stocks or State bonds in April or September? A. I don't know that I do; know the value of September.

Q. How did you ascertain the value of stocks in September? A. I took a financial paper and referred to the stock quotations and gave the bank the advantage of the highest price; for instance, I put it at eighty, because I could not find out what had been paid.

Q. Did Mr. Ellis inform you that he had sent three gentlemen there to make the examination of that bank, and their judgment was more reliable than yours? A. No, sir.

Q. Didn't he indicate that to you, that it was no part of your business to be supervising the report of the special examiners? A. No, sir, for I did not supervise any reports of special examiners.

Q. Or volunteering to make a report against special examiners? A. No, sir.

Q. Didn't he indicate a seeming disapproval of interference on your part? A. No, sir; he had no reason to do so.

Q. What value did you put upon Kansas State bonds? A. I believe par; not being able to find the quotations.

Q. Look at the paper and see; in September, 1873, what did you put upon them? A. Par.

Q. The amount? A. \$155,000.

Q. Didn't you observe that the special examiners in 1873 had reported Kansas State bonds at \$175,000? A. No, sir.

Q. What is the report of the bank in July, as to the amount of Kansas State bonds? A. The same as I had it.

Q. The same as you have got it there? A. Yes, sir.

Q. What did you write the value of \$100,000 Louisiana State bonds at? A. \$55,000.

Q. Did you see that the special examiners reported those bonds in the preceding April at par? A. No, sir.

Q. Did not notice that at all? A. No, sir.

Q. Was not your attention in any way called to their examination? A. Not at that time.

Q. How, then, did you get at the value of the real estate then fixed by the examiners at that time if you did not look at the report? A. I did not say I did not look at the report; I looked at the report for the purpose of ascertaining at what amount they put in the real estate.

Q. You looked at it for no other purpose? A. As I remember, that was all.

Q. It was all in one column so that you could by a glance of the eye see? A. My only object was to get that item.

Q. What did you put the Georgia State bonds at? A. Forty-four thousand five hundred, the market value; eighty-nine per cent.

Q. Did you notice that the examiners put them at ninety-nine the preceding April? A. No, sir.

Q. What did you put the Alabama State bonds at? A. \$54,800; fifty per cent.

Q. The examiners how much — fifty-four cents? A. I don't know what they put it at.

Q. Virginia State bonds, what rate did you put on them? A. Fifty per cent.

Q. That is higher than the examiners? A. I don't know any thing about that.

Q. The Jersey bonds, what rate did you put those at? A. Ninety per cent.

Q. You saw the quotation in the paper of that date; the financial papers of that date say only ninety per cent for Jersey bonds? A. I took it from the financial journals of that date, and I supposed I had them correct.

Q. Didn't you know a year afterward they sold above par? A. I don't know.

Q. You had no occasion to look at a financial journal after making that paper, I suppose? A. Yes, sir.

Q. What rate did you put the dry dock bonds at? A. Par.

Q. Did you notice the examiners only put them at ninety-seven cents? A. No, sir.

Q. When was your attention first called to this examination made by the examiners of 1873? A. I can't tell exactly; but I think I saw it soon after the report was received at the department.

Q. Can you tell about what time it was received? A. No, sir.

Q. Do you recollect of this addenda to this report signed by Mr. Reid? A. No, sir.

Q. Have you seen that which I showed you in the printed book? A. I don't know.

Q. Don't you remember that? A. No, sir.

Q. That Mr. Reid stated that the troubles in Louisiana have rendered their State bonds unsalable; don't you recollect your attention being called to that in the department? A. I have no doubt I read that if it was in the text of his report; but of course I do not remember it; there were a good many of those reports received.

Q. Not of this character; not many reports that trouble has rendered bonds unsalable; you have never read many of those reports? A. No, sir; I was speaking of the report of the examiners.

Q. Did you afterward look to see whether these Louisiana State bonds appreciated in value? A. No, sir.

Q. Have you ever given any attention to the price of Louisiana bonds prior to making that statement? A. I don't remember; probably I have.

Q. You don't remember? A. No, sir.

Q. You stated that you did not subsequently say the only occasion you ever had to refer to Louisiana bonds to ascertain their value was the precise time you made that statement; is that it? A. No, sir.

Q. I ask you if you have had occasion, since then, to refer to Louisiana bonds for any purpose, as connected with the department? A. I can't say that I have or have not.

Q. Then you have no recollection at all; then the only recollection that you have is referring to quotations at the precise time? A. The reason I recollect that is, because it is written on it there.

Q. I was only calling your attention to the bonds and not to the paper; your business, I suppose, was confined exclusively to the Banking Department? A. Yes, sir.

Q. Assuming that the assets of the bank were as reported by the special examiners and their value as reported by them, would you call this bank then in a state of insolvency? A. I don't know that I understand your question precisely.

Q. Assuming that the bank held the securities which the special examiners reported to the department, and that the value of those securities were as reported by them, would you call the bank then in a state of insolvency? A. I cannot say as to that, for I have made no calculations.

Q. But it seems that you have three different statements there; what was the purpose of making three? A. The first one is a copy



merely of the report made July 1, 1873, and the other two are based upon that changing of values for 1873.

Q. Why did you go back to 1871, Mr. Keyes' report of the value of real estate? A. Because I thought there was not a very definite idea as to the value; the two examiners reported the value differently.

Q. That is, one in 1871 and one in 1873, different? A. Yes, sir.

Q. That is what attracted your attention to the real estate? A. No, not that step, but it occurred to me to make the statements on those two bases, in order to get at something like an approximate idea of the condition of the bank in September, 1873; an approximate result, rather.

Q. Did you keep track of the mortgages in those days? A. No, sir; only as I referred to them in the financial papers; I did not watch them closely.

Q. Can you tell whether there was an appreciable difference in the value of stocks in the spring and fall of 1873? A. No, sir, I did not notice them in that manner.

Q. Did you notice whether there was a panic in 1873? A. Yes, sir.

Q. When did that panic commence? A. It commenced in the fall; I think in September.

Q. Commenced about the time you made the statement? A. I don't know about that; it never occurred to me when I made the statement.

Q. That panic brought down the price of all stocks? A. Yes, sir.

Q. And then you fixed a price of stocks upon panic prices? A. I don't know that I did, sir; I hardly think I did; I do not believe I did.

Q. You did not put them above quotations? A. I took the quotations as I found them.

Q. What time in September was this paper made? A. I didn't date the time exactly.

Q. Can you state whether it was the fore or the latter part of the month? A. I am inclined to think it was the fore part of the month, because I took up the report as soon as I could after the first of July, to make the examination.

Re-direct-examination of *Mr. Smith* :

By Mr. TRACY :

Q. Before doing this work had you before you the fact that the bank reported a surplus in July? A. I believe so.

Q. Had you heard the fact that these examiners a few months before reported a deficiency? A. I did know of that.

Q. Now then was it usual for these reports to come into your hands for scrutiny after they came in the department? A. Yes, sir; that is, the reports from the bank.

Q. You were called the head clerk? A. They called me chief clerk; the title is accountant.

Q. Was it not known to Mr. Ellis that that was a part of the business which you were doing? A. He saw that was the business I was doing when he came into office.

Q. It was your custom to go to him and to give him the result of your scrutiny? A. Yes, sir.

Mr. TRACY — I would like to read a passage from the testimony in print, when Mr. Ellis was on the stand, on page 273.

“By Senator ST. JOHN :

Q. You did propose to take bonds in another instance, I think? A. No; do you refer to the Mechanics and Traders’?

Q. Yes; I thought your letter suggested that? A. My letter did suggest bonds or cash, but I don’t think I intended — I never have done it — to take personal bonds; I don’t say that the superintendent had not the right to do it; I rather think he had; I think Mr. Howell did in two or three cases.

Q. I would like to make the inquiry whether, when these reports are made to you — these estimates of assets and liabilities from these various banks — whether you yourself, personally, give them a careful examination, to see whether the assets are worth, in your opinion, what the bank owes? A. I can tell you how they are treated when they come to the office; they go first to the head clerk.

Q. For tabulation? A. No; for examination; he looks through all the items of assets, and if he finds every thing regular and straight, there is no particular mention made of it; if he finds any thing that looks irregular, or any estimate that looks too high, or any thing of that kind, it is either handed to the deputy or myself, and we examine it carefully.

Q. You mean by that, if the clerk reports every thing all straight you take no further pains with it? A. No; before they are finally sent to the public they are all examined; I mean on the receipt of these papers from day to day, as they are going in; for instance, take the quarterly statement of the bank; he examines all those; that has been his business for years.

Q. I don’t care about the quarterly statement, I am talking now about savings banks? A. They are all examined.

Q. Do you make an estimate yourself as to the value of these liabilities to see whether the bank has got a surplus or not?”

By Mr. McGUIRE :

Q. I omitted, Mr. Smith, to ask you this; you have been in the office, you say, about twelve years? A. Yes, sir.

Q. Performing the same duties you are performing now? A. Yes, sir.

Q. Who was the immediate predecessor of Mr. Ellis? A. Mr. Howell.

Q. Who preceded Mr. Howell? A. George W. Schuyler.

Q. Reference has been made to the addition of the cost of the building; when was that first brought to your notice; was it in 1868, or did you ever notice it? A. I don't know whether I noticed it or not.

Q. You were, then, not taking sufficient interest in the bank at that time to see that on the 1st day of July, 1868, they had added \$100,000 to the cost of the building from what they had reported on the 1st of January, 1868? A. I did not examine the reports in 1868.

Q. I understood you were doing the same business then as now? A. I did not mean to state for the whole time; when Mr. Howell came in, I commenced the examination of the reports; sometime during his administration, but not during Mr. Schuyler's.

Q. Mr. Howell came in in 1871? A. In 1870, I believe.

Q. Had not your attention been called to the report of this bank, to show this deficiency of \$100,000? A. Not at that time; no, sir.

Q. When was your attention first called to it? A. My attention was not called to the addition of \$100,000 to the cost of the bank.

Q. To the cost of the bank building? A. Bank building.

Q. You never, then, commenced scrutinizing these reports with any care until Mr. Ellis took charge of the office? A. I never scrutinized the report until Mr. Howell had taken charge of his office; sometime during his administration.

Q. While Mr. Howell was superintendent this bank had a great deal of trouble, did it not? A. Yes, sir.

Q. And was it while Mr. Howell was superintendent this \$100,000 of personal bonds were lodged in the department? A. Yes, sir.

Q. You recollect that fact when they were brought there? A. Yes, sir.

Q. Were they brought there or given by the bank upon the demand of Mr. Howell? A. I believe it was the result of a compromise upon the part of the bank officers and the Superintendent of the Bank Department.

Q. Did the Bank Department, while Mr. Howell was superintendent, institute any proceedings against this bank to wind it up or stop it? A. I believe not.

Q. Do you know the fact that there was a suit commenced to

dissolve this bank, upon the ground that their assets reported in 1873 were not legal and proper assets; didn't you so report to the department that such a suit was commenced? A. By the Attorney-General?

Q. Yes, or from any source? A. I don't know any thing about that; I know they had a considerable trouble; I don't know any thing about suits having been commenced.

Q. Was any official information communicated to the Bank Department that these very securities which the examiners found there in 1873 were decided by the court to be legal and proper securities? A. The Alabama bonds?

Q. The securities which the examiners found there in 1873? A. I don't know of any such decision.

Q. I did not ask you about the decision; I am asking about information communicated to the Bank Department—that the court had decided those securities to be valid, and these personal bonds to be valid securities? A. No, sir; I do not.

Q. Do you recollect Mr. Howell so reported to the legislature in 1873 that fact? A. No, sir.

Q. That it was communicated to the department? A. No, sir.

*William F. Aldrich*, being duly sworn on behalf of the State, testified as follows:

Examined by Mr. TRACY:

Q. Where do you reside? A. In New York city.

Q. Have you been one of the examiners appointed by the Superintendent of the Bank Department? A. Yes, sir.

Q. For how long a period have you served occasionally in that duty? A. I think I was in it probably five years; I think about that; four or five years, occasionally; I was appointed by different banks, by Mr. Howell and by Mr. Ellis.

Q. On each occasion you have a separate appointment? A. Yes, sir.

Q. Were you one of the examiners of the Third Avenue Savings Bank in April, 1873? A. Yes, sir.

Q. Who were your associates? A. Mr. Reid and Mr. Vroman.

Q. Mr. Vroman, who has been here on the stand? A. Yes, sir.

Q. You signed the report you then made? A. Yes, sir.

Q. That report is on pages 358 and 359; what did you say as to the correctness of the report as to the deficiency of the bank being \$5,735.01? A. I think that was the balance we made out against the bank at that time.

Q. What do you say of the correctness of your report? A. I believe it was correct; as near as we could get it.

Q. Fairly done? A. Yes, sir; supposed to be.

Q. When were you called on next as an examiner of that bank? A. In March, 1875.

Q. Were you afterward? A. Yes, sir; about two years afterward.

Q. Pages 375, 376, 378 and 380; this report has been put into evidence, and I will call the witness' attention to it; did you examiners, on that occasion, make out that deficiency there, and if so, state what it was found to be? A. We made a deficiency, I think, of over \$200,000.

Q. Look at that book and state? A. That is the deficiency of income.

Q. How much did you make the deficiency of assets at that time?

A. Two hundred and nineteen thousand two hundred and twenty-six dollars and eighty-one cents, without reappraising the land; we found the deficiency was so great we did not think it worth while to reappraise the land at that time; the real estate of the bank.

Q. Look on the portion of it on page 377 where the annual income and charges thereon were examined by you? A. I have done so.

Q. How much did you make the annual income? A. A deficiency of \$44,791.

Q. You observe the note at the foot of that column? A. Yes, sir.

Q. And on the next page the letter which Mr. Reid and yourself signed? A. Yes, sir.

Q. Where he says: "It will be seen from the schedules annexed that, after estimating the assets at full market value, there is a deficiency of \$219,000, besides the trust guaranty fund of \$115,000?"

A. Yes, sir:

Q. You included the \$115,000 in the footings of assets, did you?

A. Yes, sir; I think so; yes, sir; we included those.

Q. Will you state how long you were occupied in this examination? A. Two days, I believe.

Q. I find in the official testimony you gave before the committee the following on page 400:

"Q. How did you estimate the value of the real estate? A. In that respect we took the old estimate, because we found there was so large a deficiency we thought that would take a long time to look up the estimates or make a new estimate, and we took the estimate of a former examination."

Q. You thought the deficiency was very large? A. We found it was so large that it was not necessary to make any further examination in respect to the real estate, so we didn't spend any further time on it.

Q. Did you ascertain at that time, or know at that time, that the trustees had added \$100,000 to the original cost of the banking-house?

A. No, sir; it was unnecessary to go into that, as the deficiency was so large.

Q. In other respects the examination was carefully done? A. Yes, sir.

Q. And the report a correct one? A. I believe so.

Q. Were you ever called upon afterward to examine that report?

A. No, sir.

Q. Did you examine any bank after that? A. I think I did; I think I examined some at Rochester in October of that year.

Cross-examination of *Mr. Aldrich* :

By Mr. McGUIRE.

Q. You made no examination or re-examination of the value of the real estate in 1875, as I understand you? A. No, sir; no new one.

Q. Took the old one? A. Yes, sir.

Q. Did you make one in 1873, you and Mr. Reid? A. Yes, sir.

Q. Will you state, Mr. Aldrich, if you please, what you and Mr. Reid did in 1873 in regard to the appraisal of this Tarrytown land? A. Some little time after the report of the examination of the Third Avenue Savings Bank we went to Tarrytown to examine the Tarrytown bank; we took that occasion to examine personally this land and to inquire of residents of that vicinity the price of land of that character; we found that land not as good was selling at a larger price, \$2,000 an acre; further over from the village than this, and, as near as we could ascertain the market value at that time, we, as reported, made up our minds, and estimated; I might state here there was a good deal of excitement at that time, in consequence of what they called the New York, Boston and Montreal Railroad Company, constructed just over the ridge from this land; and they had a report at that time that they had negotiated a mortgage of \$6,000,000, and that the money was on the way to complete it; and there was a good deal of excitement about land at that time; and another reason why we put it at that rate was that the trustees of the bank agreed and were willing, they said, to pay interest on that investment, personally, and give that price, personally, for the land to the bank; that they would become responsible for the interest at \$1,500 an acre to the bank.

Q. And did not the fact that lands not as good as this, in the same neighborhood, were selling for \$2,000 an acre, influence your judgment also? A. Undoubtedly.

Q. Were your inquiries as to the value in that locality general?

A. General; we saw a good many individuals that knew about land.

Q. The value, then, Mr. Aldrich, that you put upon the land was rather under than over what was regarded as the value of the land in the neighborhood at that time? A. They regarded this as worth that and we put it at that.

Q. Your attention has been called to your report of 1873; have you the book there? A. Yes, sir; this is for 1875.

Q. Eighteen hundred and seventy-three, I now call your attention to; turn to page 361? A. I have it.

Q. You have a report accompanying the schedule signed by Mr. Reid, yourself and Mr. Vroman? A. Yes, sir.

Q. You stated that your reports were correctly and truly made and according to the best of your judgment? A. Yes, sir.

Q. And are the statements in this written report true, or were they true at the time? A. Yes, sir.

Q. You stated that "a large number of your board of trustees having resigned, the vacancies were filled by gentlemen of wealth and character, who appeared determined to sustain the institution, and there is every reason to hope that it will be successful;" did you find that to be the fact upon inquiry? A. Yes, sir.

Q. That is accompanying the report of the examination of 1873? A. Yes, sir.

Q. Did you learn what gentlemen of wealth and character came into the institution as trustees? A. Yes, sir; I think we did.

Q. Can you mention any of them now? A. I cannot; Mr. Laimbeer was one.

Q. Mr. Opdyke also? A. Yes, sir; the young man; the young Mr. Opdyke, and Mr. Decker and some others; I don't recollect now the names.

Q. The determination you then found in these gentlemen of wealth and character to sustain the institution induced you not to make any recommendation to the superintendent? A. We hardly ever made any recommendations to him; we stated the fact and let him draw his own conclusions.

Q. You had a purpose in stating that fact, that gentlemen of wealth and character had got into the institution as trustees and were willing to sustain it? A. Yes, sir.

Q. What was that purpose? A. We wanted to give the bank all the benefit of that fact.

Q. This small deficiency you then found of \$5,735.01, under the circumstances that you stated in this report, was not very alarming? A. No, sir.

Q. Do you know what the policy of the department had been prior to Mr. Ellis being in the office, that is, as to when they found a small deficiency under like circumstances whether he immediately closed the bank or gave it time to repair? A. I think the policy generally was either to require them to secure it, or, if so small as this, to give them time to see what effect the change of market stocks would help them as the market price was continually changing; if it was a small deficiency, I believe they did not notice it, but if it came up as high as \$10,000, it then required either a bond or money put up.

Q. Some security given? A. Yes, sir.

Q. You also referred in this report to the courage and perseverance with which the trustees stood up under a run upon the bank by which in forty-five days \$4,500,000 had been drawn out? A. Yes, sir; we alluded to that fact; it was immediately after that run that we made it.

Q. This run was in 1872? A. I have forgotten; it was a short time before that.

Q. The run upon the bank, in which in forty-five days they paid \$4,500,000, was in 1872, and you examined it in the spring of 1873; wasn't that it? A. I think it must have been late; I think it extended into the winter of 1873; I won't be sure about that; but my impression is it was January or February, 1873.

Q. It was after the run a short time? A. Yes, sir.

Q. You stated in the report the fact that they stood up under this run, and paid the \$4,500,000; do you know whether that was a fact that they paid that? A. Oh, yes, sir.

Q. You could see from an examination of their books? A. I was familiar with the fact before.

Q. How did you ascertain the fact that you stated in your report that the Supreme Court had refused to appoint a receiver? A. I don't recollect now how I ascertained the fact, but it was in the report at any rate; I knew the lawyers, and knew of the attempt to appoint a receiver; knew all about it.

Q. It was a fact understood which you deemed should be communicated to the superintendent? A. Yes, sir, it was; for he had tried to get a receiver appointed.

Q. At the foot of page 361 and top of page 362 you say that "their personal obligation for the deficiency last year is already on file in the department;" what did you refer to by that? A. This deficiency of the bond; we did not have that before us, but we wrote the department of the fact it was with them, and whether it was legal or not, we supposed the department had taken counsel about that.



Q. And you counted that in the assets? A. Yes, sir.

Q. "And they have also agreed to pay to the bank a sufficient amount to cover interest on the unproductive real estate at Tarrytown;" was there any written agreement of that kind? A. No, sir; they said they would do that, and we reported the fact to the department.

Q. That it was said so? A. That they would agree to that, that the department might take action upon it.

Q. You put all the information you possessed about it before the superintendent, so that he could do what he saw fit? A. We spread all the facts before him and the grounds of our action.

Q. Your action consisted merely in stating the condition of the bank? A. Yes, sir.

Q. And all these other things? A. That was our duty to inform the superintendent.

Q. It was not your business to recommend any action? A. No, sir; the law required us to report the deficiency to the superintendent.

Q. I see that the final note on the report seems to be dated the 17th of May, 1873, signed by Mr. Reid? A. Yes, sir; that was done in my presence.

Q. That was before the report was out of your hands? A. Yes, sir; when we came from Tarrytown, we found the difficulties about the Louisiana bonds, and Mr. Reid added that addenda: "Since our examination, the troubles in Louisiana have rendered their State bonds unsalable, and if continued, may cause a heavy loss to the bank. May 17, 1873."

Q. You knew about that note? A. Yes, sir; I was present.

By Senator HARRIS:

Q. How did you place the value of stocks on hand and arrive at the value? A. Mr. Reid went down to Wall street, and ascertained from the actual market value and from the quotations there obtained, as they were then.

Q. You put them at the quotations at that time? A. Yes, sir; as near as we could get them.

Q. Did you do that in both examinations of 1873 and 1875? A. Yes, sir.

Q. So that in both the reports that you made, as examiner, you took the stocks that were on hand, and placed them at the market value on the day you made your report? A. Yes, sir; on the day when there was a market value before us; we started on the Louisiana bonds, there was no market value at that time.

Q. In 1875? A. In 1875.

Q. And the real property you placed at the same value in both reports of 1873 and 1875 ? A. Yes, sir ; the reason we did not go through with that estimate I have already explained.

By Senator SCHOONMAKER :

Q. Mr. Aldrich, did you draw this report ? A. No, sir ; Mr. Reid drew it.

Q. Did you assist in the preparation of it ? A. No, sir ; Mr. Reid drew it up and submitted it to me, and I do not think I made any amendments to it.

Q. It had your full assent ? A. Yes, sir.

Q. Were you a professional gentleman at that time ? A. Yes, sir,

Q. What was your profession ? A. I am a lawyer.

Q. Where were you practicing ? A. In New York.

Q. Had been a resident of New York some time ? A. Yes, sir.

Q. How long ? A. About seven or eight years at that time.

Q. Did you make a specialty of real estate ? A. No, sir.

Q. Did you have any special or particular knowledge of the value of real estate ? A. No, sir ; only general knowledge of that ; we made inquiries of brokers and others, in reference to the real estate in 1873, both in the city and at Tarrytown.

Q. State precisely where this land was located ? A. It is back of Tarrytown — what they called the “ Herrick castle,” that the Herrick castle was on.

Q. You mean back of the village of Tarrytown ? A. Yes, sir.

Q. Back of the station ? A. On the back of the hill.

Q. How far from the station ? A. I should think it was something over a mile ; a mile and a-half perhaps.

Q. Is it improved land ? A. Yes, sir.

Q. Did you report it was unproductive land, and what did you mean by that ? A. I don't know as it was farmed at the time ; it was cleared, and the farm buildings upon it, barns, etc., but I won't be sure it was worked ; at any rate it produced very little ; it was villa-site property ; that was the real value.

Q. Was it tillable land ? A. Yes, sir.

Q. Was it under actual cultivation ? A. A part of it.

Q. How much ? A. I don't recollect.

Q. Nearly all of it ? A. Nearly all of it, I think.

Q. Did you make your inquiries as to the value ? A. In Tarrytown, of various individuals, and of individuals living in that vicinity.

Q. What did you make your inquiries about ? A. I inquired — I recollect one gentleman — Mr. Bradley — V. O. Bradley.

Q. Men in what occupation ? A. Various occupations ; I don't

recollect exactly what their business was ; a banker there I inquired of and others ; a hotel keeper that we put up with, and other individuals there ; Mr. Bradley was a large landholder.

Q. Did you inquire of any real estate agents, dealers ? A. No, I think not ; I don't recollect of seeing any there.

Q. What railroad did you speak of ? A. I think it is called the "New York, Boston and Montreal Railroad."

Q. Was that proposed to be located through this property ? A. No, sir ; just east of it ; just over the other side of it.

Q. Was that understood to affect the valuation of this property ? A. Yes, sir, favorably ; further off from Tarrytown, they told me, land was selling for \$2,000 an acre.

Q. Did you learn of any sales of that character ? A. Yes, sir ; we heard of one ; a gentleman told us that he knew of one.

Q. At what time ? A. It was a farm.

Q. At what time ? A. A short time before we were there ; in the spring.

Q. Land in that immediate vicinity ? A. Yes, sir.

Q. Similar to this ? A. Not as well located, I think.

Q. I understand you to say the value you considered this land to possess was for villa purposes ? A. Yes, sir ; it was not for agricultural purposes worth any such thing.

Q. This was a mile from the village ? A. Over, I think.

Q. What was the date of this report ? A. It was the date that was sent up ; May 19th, I think ; that was the date of the addenda.

By Senator BRADLEY :

Q. I do not understand the witness to state the manner in which they arrived at the value of the Louisiana State bonds ? A. By inquiring in Wall street.

Q. I understood you to say there was no market value in 1873 or 1875 ? A. No ; in 1873 I think there was ; at the time we made that addenda in 1875, the troubles there had rendered them unmarketable.

Q. In 1875, how did you put it ? A. We stated that fact at the bottom of the report.

By Mr. TRACY :

Q. In 1875, on your second examination, did you make any inquiries about the Tarrytown land, at all ? A. No, sir ; we assumed the deficiency was so great that there was no necessity of it.

Q. Did you assume also the lands were not worth as much as they were before ? A. We did not assume any thing about it ; we put them in as it was.

Q. Had not real estate, particularly that description of real estate, subsided immensely in those two years? A. Not so much; that was before the panic — the spring before.

Q. Had not real estate of that description subsided? A. I do not recollect.

Q. Do you recollect that railroad enterprise had failed in the meantime? A. Yes, sir; that had failed.

Q. So that the prospect of a future villa was exploded? A. No, sir; it was easily reached from the Hudson River road.

Q. I suppose from this report that you did not look into the valuation of the land, upon the assumption that they were not worth any more than they were two years ago? A. They were not worth any more than they were two years ago.

By Senator GERARD:

Q. Was the Hudson river visible from any part of this land? A. Yes, sir; I think so.

Q. Were you on the land? A. Yes, sir.

The Senate adjourned till Thursday, July 26, 1877, at 8 o'clock, A. M.

SARATOGA, July 26, 1877.

The Senate met pursuant to adjournment; a quorum present.

*Edmund M. Plumb*, being duly sworn on behalf of the State, testified as follows:

Examined by Mr. TRACY:

Q. What is your business and position? A. Clerk of record in the county clerk's office in New York city.

Q. Do you produce from the files of the county clerk's office in New York the report of the receiver in this case? A. I do.

Q. What is the paper you have in your hand? A. The report of the receiver in the case of The People of the State of New York against the Third Avenue Savings Bank.

Q. When filed? A. Filed December 16, 1876.

Mr. Tracy read the paper in evidence, as follows:

#### SCHEDULE A,

*Annexed to report of S. H. Hurd, of the Third Avenue Savings Bank, in the city of New York, verified January 14, 1876, filed in the office of the clerk of the city and county of New York, January 15, 1876:*

Banking house, Third avenue and Twenty-sixth street,	\$55,000 00
House and lot, Fifth avenue, at Eighty-fifth street.....	34,000 00
Lot and brick stable, Twenty-sixth street.....	6,500 00
East lot, One Hundred and Fifty-ninth st.,	\$3,850 00
West lot, One Hundred and Fifty-ninth st.,	1,130 00
	<hr/> 4,980 00
House and lot, No. 19 East Forty-sixth street.....	1,600 00
House and lot, No. 28 East Forty-seventh street.....	5,100 00
House and lot, No. 21 East Forty-sixth street.....	1,550 00
House and lot, No. 23 East Forty-sixth street.....	1,575 00
House and lot, No. 36 East Forty-ninth street..	7,600 00
Lot at Yonkers .....	2,250 00
House and lot, 25 East Forty-sixth street.....	1,600 00
Tarrytown property.....	15,865 66
Ten per cent on sale 7, East Forty-sixth street.....	275 00
	<hr/> <hr/> \$137,945 66

#### SCHEDULE B,

\$100,000 Louisiana bonds sold for.....	\$44,157 50
68,500 Alabama bonds sold for.....	22,761 88
7,000 Tennessee bonds sold for.....	3,018 75
2,908 Virginia bonds and scrip sold for.....	700 16
	<hr/> \$70,638 29

Mr. MCGUIRE—There are other schedules accompanying this report that we desire to put in, attached to the same paper; we desire to put them in.

*William F. Aldrich*, recalled by the counsel for the State, further testified:

Q. Do you desire to correct or explain any part of your testimony given yesterday, in respect of the value of the Tarrytown real estate in 1875? A. I misapprehended your question; and speaking of the panic, I referred to the first report, the first examination having occurred before the panic, and the second after the panic.

Q. Eighteen months after the panic? A. Yes, sir.

Q. At the time of the second examination, had there or had there not been a large fall in that description of real estate? A. I think there had, sir.

Q. Do you observe in your first and second examination there is a difference in the quantity of Kansas bonds held by the bank, and mortgages in the second examination than the first; do you recollect that circumstance? A. No, sir.

Q. Also of the Dry Dock railroad; do you recollect that circumstance? A. No, sir.

*Samuel H. Hurd*, recalled by the counsel for the State, further testified:

Q. Mr. Hurd, I would like to hear from you distinctly whether you were surprised at your appointment, or otherwise? A. The appraisers were appointed by the Supreme Court.

Q. What were your proceedings before selling the real estate? A. There was a good deal of discussion in regard to the propriety of selling; some people thought that because of the dull market it ought not to be sold; the depositors were clamorous for what money they could get out of it; it was going to cost \$10,000 or \$12,000 to hold the real estate, for a year with the, to me, no good prospect during the time of selling it, so that I would be justified in holding it; thinking there would be any better real estate market, I petitioned to the Supreme Court for instructions; I served a copy of my petition upon the Attorney-General, and upon two or three gentlemen in New York, who represented depositors; counsel for the depositors; the matter was heard, and those gentlemen were heard, some of them; the court ordered that I should advertise and sell at public auction, at the Exchange in New York, subject to the approval of the court; I did advertise it for six weeks in most of the daily papers in New York city; I advertised in two papers in Tarrytown; I advertised it by posting bills on each piece of property in and about New York, and some in Tarrytown; the diagram of each piece of property was printed and sewed together in pamphlet form and distributed; it was sold at the Exchange and at public auction; I made my report to the Supreme Court, and served a copy of my report upon the Attorney-General, and upon the counsel that I mentioned before; my report was accepted, and I was ordered to complete the transfer of the property upon the payment of the money as provided by the sale; perhaps I had better say that at the first sale of extent, as to the Tarrytown property, there did not seem to be anybody that wanted it; the sale was postponed, I think, for two weeks; at any rate new posters were gotten out and posted around Tarrytown, and it was advertised in the Tarrytown papers as well as in the New York papers.

Q. What do you say about the decrease of values in real estate along after 1873 down to this time? A. I do not think the property would bring as much to-day as it did then.

Q. Has there been any recovery of price? A. No, sir.

Q. This banking house was a large building? A. It is; it fronts on Third avenue twenty-six feet and some inches, and it runs back, I

think, 109 feet with an ell; it runs back on Twenty-sixth street about one hundred feet or about half the block and I should think, about twenty feet wide; I do not recollect the exact width.

Q. Will you briefly describe how the building was cut up, and how arranged; how the interior of it was? A. The banking-house was on the corner; occupied the corner; part of it running back, should think seventy-five or eighty feet; then there was another room, which was the secretary's room; and back of that, on Twenty-sixth street, was a very elaborate building, the trustees had put up for their deliberations.

Q. Was any part of the building proper rooms for shops or stores, such as are ordinarily rented? A. The front bank building could have been used for a store; it was more adapted to a banking-house than any other purpose; I think the corner part of it could have been used very nicely for a store; it has two or three steps to go up in it.

Q. Could the rest of the premises be used for ordinary commercial purposes? A. No, sir.

Q. Was it adapted to the purposes of a dwelling-house or residence? A. The upper part of the building is in flats, and is occupied for dwellings.

Q. Was the upper story adapted to any ordinary use? A. No, sir.

Cross-examination of *Mr. Hurd*:

By Mr. McGUIRE:

Q. You say the appraisers were appointed by the order of the court; is that so? A. Yes, sir.

Q. Did these appraisers ever make a report of the values? A. Yes, sir.

Q. To whom? A. To the court, I suppose.

Q. Did you have a copy of it? A. I had the appraisal of each piece of property on a separate slip of paper; I don't recollect that I ever had a full, detailed report.

Q. You had the full appraisal on separate slips of paper? A. Yes sir.

Q. Have you those slips of paper here? A. No, sir.

Q. Can you say what the appraisal was? A. I do not recollect, but it was more than the property brought; I think the appraisal of the banking-house was \$75,000; I have that recollection of the matter.

Q. And all the other pieces of property in the same proportion, I suppose? A. Yes, sir; I should think they were; there was one piece of property on One Hundred and Fifty-ninth street that I think

brought a little more than the appraisal \$100 or \$200; but, aside from that, the property brought less than the appraisal.

Q. Are the slips of paper that you spoke of now in your possession?

A. I don't know whether they are or not; I suppose they are in the office in New York.

*Henry L. Lamb*, a witness on behalf of the State, being duly sworn, testified as follows:

Examined by *Mr. TRACY*:

Q. Where do you reside? A. My residence is at West Troy.

Q. What is your business and position? I am Deputy Superintendent of the Bank Department.

Q. How long have you been in that position? A. Since the 1st of May, 1873.

Q. Will you produce, if you have, any letters which came into the department about the Third Avenue Savings Bank? A. I have all the correspondence here.

Q. This letter that you produce is one of them? A. That is one of the letters on file in the office from Mr. Reid to the Superintendent, dated New York, March 24, 1875.

*Mr. TRACY* — That letter is already in evidence.

Q. Were you in the department when the examination in March, 1875, of the examiners came in? A. I was.

Q. Did you see it? A. I did.

Q. Did you examine it? A. I did.

Q. Did you have any conference or communication with Mr. Ellis on that occasion?

*Mr. CHAPMAN* — Mr. President, my friend has been all over that; it is in the printed testimony.

The WITNESS — I testified to all I knew about this matter at Albany during the former inquiry.

*Mr. TRACY* — The question I now ask is not there at all, the question about conference with the superintendent.

*Mr. CHAPMAN* — You will find that reported at page 496.

Q. Did you have conference with him? A. We had a conversation the morning the report was received at the department in regard to the bank and the report.

Q. That was the only one you had? A. That was the only one.

Q. Will you state what was said and done in that conference? A. I said that I thought the bank ought to be closed up; Mr. Ellis said, in view of pending legislation in respect to savings banks, that he thought it best to wait until the Legislature adjourned.



Q. In point of fact when did the Legislature adjourn? A. I cannot tell the exact date; I think it was past the middle of May.

Q. Was any thing done by Mr. Ellis about that bank after this conference, and, if so, what and when? A. Not to my knowledge; what he may have done himself at New York I am not apprised of, and was not at the time.

Q. Was there any order under his hand and seal issued by him to that bank? A. Not to my knowledge.

Q. You were there at the department at the time the proceedings were instituted to close the bank? A. No, sir, I was not.

Q. Where were you at the time? A. I was at Chicago.

By Senator WOODIN:

Q. This report that came in in 1875, from those examiners, is the one that showed the large deficiency? A. Yes, sir.

Q. And in that conversation that took place between you and Mr. Ellis, after you suggested the bank should be closed up, he replied that he thought, in view of pending legislation, that proceedings had better not be taken? A. In view of pending legislation in respect of the savings banks.

Q. Did he state, in that conversation, how the pending legislation would affect the question of the solvency or insolvency of that bank? A. No, sir; there was no discussion of the question generally; but I understand that he felt that the closing of this bank at that time might obstruct or become prejudicial to this general savings bank act, which he desired to see passed; it was the effect of closing upon that bill that he apprehended.

Q. Was that the reason assigned by him? A. I don't know that it was stated precisely, but that is what I understood; I don't think it was stated fully and explicitly; that was my understanding of his reasons.

Q. It was not that the bank or banking institution was to derive any advantage? A. No, sir; I did not understand that.

Q. But that the legislation pending might be impeded by the closing of the bank? A. Yes, sir.

Q. Is that the reason? A. So I understood.

Q. How long were you engaged in conversation with him about that report? A. I should not think more than four or five minutes.

Q. And the subject was dismissed? A. Yes, sir.

Q. Have any further conversation with him about it? A. No, sir.

Q. Do you know whether the subject was up in the Banking Department for consideration of that, during the session of the Legislature; I mean whether the subject-matter of this bank was under consideration during the session of the Legislature that year? A. No, sir; I don't know that it was.

Q. That was all the consideration it received at that time? A. Yes, sir.

Q. Was it under consideration so that it formed the subject of discussion between you and the superintendent, or by the superintendent, after the adjournment of the Legislature, and prior to proceedings being taken in September? A. No, sir.

Q. This bill passed, did it not? A. It did.

Q. Do you remember the day of its passage?

Mr. McGUIRE — It was May seventeenth.

Q. I mean the time that it became a law?

Mr. McGUIRE — That was the day — May seventeenth.

Q. I ask whether the superintendent issued an order of any description in regard to this bank, after the coming in of this report until sending in the letter to the Attorney-General? A. I don't know, sir.

Q. Any order to the bank? A. Not to my knowledge.

Q. When these orders were issued by the superintendent to the various savings banks — for instance, any order to discontinue illegal practice — are those matters that come under your immediate supervision? A. No, sir.

By Mr. CHAPMAN :

Q. I will ask you whether there was not in the general savings bank law, pending in the Legislature at the time this report came in, some new provisions in regard to the merging of banks? A. Yes, sir, there was; entirely new provisions.

Q. Providing for the merging of weak institutions together, or their absorption by other larger institutions; the general law of merger? A. Yes, sir; what puzzled me, there was no discrimination made between weak banks referred to, but any banks could be merged or absorbed.

Q. Was not that itself spoken of by yourself and Mr. Ellis in regard to the effect to this bill in case it became a law, and the possible action under it? A. We had some talk about this new provision of the law, and about results that he hoped might be accomplished in New York in the consolidation of some of the banks there.

Q. Now, in regard to the issuing of these orders that have been spoken of, had it not been the construction of that law in the department that those orders applied to the violations of law existing at the time the orders were issued? A. Orders for what purpose?

Q. To discontinue illegal practices? A. I do not now recall any case in which such an order was made prior to the transaction with the Third Avenue Savings Bank, of which we are speaking.

Q. Had Mr. Howell acted under the law of 1871, to your knowledge, or, so far as appears from the records of the department, issued any order of that description under that law? A. I cannot tell you.

Q. Do you know of any such? A. No, sir, I do not.

Q. Do you not recollect that Mr. Howell, in his report to the Legislature, called attention to this very bank; alludes to the fact that there not being any irregularities then in progress he did not give you any order? A. No, sir; I do not recollect that.

Q. Don't recollect any thing about the report? A. No, sir.

Q. But, in fact, you know of no order having been issued by the Bank Department under this law of 1871, or under the law of 1875? A. Not prior to March, 1875; that is an order to discontinue illegal practices.

Q. I mean that; an order to discontinue illegal practices? A. An order to make good deficiencies; but that is another branch.

By Senator WOODIN:

Q. I understand you to say that there was some provision in this bill pending before the Legislature, providing for a way of merging weaker with stronger banks; some such provision? A. Merging any banks; it was purely general.

Q. Was it with a view of making that available to this particular bank that it was desired to have it postponed, the closing of it up? A. I never understood that it was.

Q. That was eliminated from the bill, was it not—the merging? A. No, sir.

Q. Was it in the bill as it passed? A. Yes, sir; no application of it has ever been made.

By Mr. CHAPMAN:

Q. As to what efforts Mr. Ellis has made to save banks under that provision, of course you have no knowledge? A. No, sir.

Q. What consultation he had with bank officials, you have no knowledge? A. I do not know; I do know that in the summer of 1875 he had hopes that some of the weaker banks in New York might be so consolidated, and a plan to that purpose was discussed by him and the savings bank officers of New York; he went to New York immediately after the adjournment, or within a very few days, in 1875, and down to New York two or three times during the summer, on savings bank and other bank business; of course, I have no knowledge of what transpired at those meetings.

Q. Is it not your opinion, Mr. Lamb, that if the bank officials had seen fit to take advantage of this provision of the law, that many of

these failures of savings banks might have been prevented and much good done thereby, providing it could have been made effective and they could have been taken up; that may justify an effort to make it effectual on the part of the superintendent? A. I would not like to answer that question yes or no; I should want to qualify it a good deal.

Q. Is it not within your knowledge that the superintendent had hopes of doing something under that law? A. Yes, sir; he did have hopes, as I have already stated; he had more intimate knowledge of the accommodations of New York than I, because I never went there to discuss these questions with savings bank men since I have been in the office.

By Mr. BRADLEY:

Q. After the passage of that law, did you hear Mr. Ellis say any thing about applying the principles of merger to this particular bank?

A. No, sir; never.

Q. Did you hear him give any reasons for not proceeding to close the bank? A. Not until after it failed.

Q. I mean after the passage of this law, before the application was made for a receiver? A. No, sir; we never had any conversation about it until the morning the report came into the office, until subsequent to its closing.

By Mr. TRACY:

Q. I will ask you if Mr. Ellis ever expressed to you any thing of this kind, which he swore to before the committee? A. I made an effort at that time to bring about a consolidation, if possible, of some of these smaller banks that I was apprehensive would lose their business and have to be closed up with the larger banks, under this law of 1875, and in order to do that, of course I had to see the bank officers of the smaller and larger banks; it was a new proposition, and of course men differed in their judgment, as to how it would work, but I made the effort and at one time it looked as though something might come out of it.

By Senator WELLMAN:

Q. You made that effort in regard to the Third Avenue Savings Bank, as well as the others? A. It grew out of that; I had no faith that any bank would take hold of the Third Avenue Bank; I had made up my mind that this Third Avenue Savings Bank had to be closed up.

Q. What time was this? A. The third of May; my object was to try and save the other banks first; this was the first bank that was closed; it was the beginning of the end of these dozen banks that have been closed up, and it was my first experience in closing up savings banks; as I said, it promised some success, and I left the matter under advisement, to be finally disposed of at a subsequent time; left them to think the matter over and see what could be done, if any thing.

By Senator ST. JOHN:

Q. Did any thing ever come out of it? A. No, sir."

Mr. TRACY—I will read a passage from the act of 1875: "And whenever it shall appear to the superintendent that it is unsafe or inexpedient for any such corporation to continue to transact business, he shall communicate the fact to the Attorney-General, who shall thereupon institute such proceedings as the nature of the case may require." The proceedings instituted by the Attorney-General may be for the removal of one or more of the trustees, or for the transfer of the corporate powers to other persons, or the consolidation and merger of the corporation with any other savings corporation that may be willing to accept of the trust, or for such other or further relief or correction as the particular facts communicated to him shall seem to require; and the court before whom such proceedings shall be instituted shall have power to grant such orders, and in its discretion, from time to time, to modify or revoke the same, as the evidence in the case and the situation of the parties, and the interest involved shall seem to require.

Senator SCHOONMAKER—I understand, gentlemen, that you are now through with your testimony touching the Third Avenue Savings Bank, except one witness?

Mr. TRACY—Yes; except one witness.

By Mr. OLMSTEAD:

Q. You testified on the previous investigation as follows: "I told him I thought it ought to be closed up at once;" did you state any reasons to Mr. Ellis for closing the bank at once? A. No, sir; I found my reasons in the report of the examiner.

Q. Did he ask you for your reasons? A. No, sir.

Q. Did you have any papers before you when that conversation took place? A. I had the report of the examiner and the accompanying letter.

Q. Was it before you and Mr. Ellis at the time? A. Yes, sir; the conversation occurred the morning that the report and the accompanying letter were received in the office.

Q. Was there no conversation as to the value of the assets of the bank? A. We had the report of the examiner, made the day before, as to the value of the assets and the condition of the bank; that was the occasion of our talk.

Q. Was there any thing said in the conversation, by you or Mr. Ellis, in respect to the assets of the bank? A. No, sir.

Q. Was Mr. Ellis, at the date of this conversation, acquainted with the contents of that report? A. Not in detail, but in results.

Q. How do you know that he was acquainted with them? A. Because we had it before us; his attention was called to it when he came into the office that morning.

Q. What did you understand to be the reason for closing that bank? A. I was told that the trustees had had a meeting, and proposed to go into liquidation.

Q. I mean, what was your reason for closing the bank at that time? A. That it was utterly insolvent.

Q. What, in your mind, was the object in closing it? A. The longer it ran the worse it got, and the sooner it was closed, the better for the depositors.

By Mr. CHAPMAN:

Q. As I understand you, Mr. Ellis himself had the idea that the bank was insolvent and that it ought to be closed up? A. He had no question about it, as I understood.

Q. And the only question was as to when would be a proper and expedient time to close? A. Yes, sir.

Mr. OLMSTEAD—The next bank in order is the Trades' Savings Bank of the city of New York, the testimony in regard to which is on pages 277–303 of the printed case, and Mr. Lamb, now on the stand, is our first witness.

By Mr. OLMSTEAD:

Q. You were subpoenaed to produce here the reports made to the Bank Department in regard to the Trades' Savings Bank of the city of New York; have you them with you? A. Yes, sir; I have all the papers relating to it that I could find.

Mr. Olmstead called upon the witness to produce the report of an examination made by George W. Reid, December 9, 1873; the witness produced the paper and Mr. Olmstead proposed to read it in evidence.

Mr. Chapman, of counsel for the respondent, objected to its admission, on the ground that it was immaterial, not coming within the scope of the charges.

The PRESIDENT—What is the paper?

Mr. OLMSTEAD—It is a report made by Mr. George W. Reid to

the department on December 9, 1873, under an order issued by Mr. Ellis, the superintendent.

The PRESIDENT — What was the objection?

Mr. CHAPMAN — The objection is this, we object to all evidence in relation to any reports or transactions outside of those embraced in the charges either of the Governor or of Mack.

The PRESIDENT — How do the counsel for the prosecution claim that this report relates to the charges?

Mr. OLMSTEAD — We wish to show the condition of the bank between 1873 and 1875; what Mr. Ellis' duty was after 1875 might depend very much upon the previous condition of the bank.

The PRESIDENT — His duty with reference to making an examination of the assets?

Mr. OLMSTEAD — Yes; this examination was made by his own examiner.

The PRESIDENT — The chair is of the opinion that the evidence is material.

Mr. Olmstead read the report and the accompanying letter of appointment in evidence, as follows:

#### EXHIBIT No. 12.

BANK DEPARTMENT,  
ALBANY, *November 26, 1873.* }

Pursuant to the authority conferred and the duty imposed upon the Superintendent of the Banking Department, by chapter 693 of the Laws of 1871, I do hereby appoint George W. Reid, Esq., to examine into the condition, working and affairs generally of the Trades' Savings Bank, New York, and report thereon to me in detail as soon as practicable.

Given under my hand and official seal, at Albany, the day and year first above written.

D. C. ELLIS,  
*Superintendent.*

Hon. D. C. ELLIS, *Superintendent Bank Dept:*

SIR.— The undersigned, appointed to examine into the condition, working, etc., of the Trades' Savings Bank of New York, reports:

Last spring the trustees concluded to wind up the affairs of this bank and had paid the depositors down to about \$1,100, when some of them resigned, and were succeeded by the present officers, who have, by energy and perseverance, raised the deposits to nearly \$29,000.

The president, who is said to own considerable property, says he is determined to make the bank a success. The promise of seven per cent interest to the depositors; the issue of "coupon certificates of

deposit" and all other extraordinary measures are to be abandoned, and every thing in future to be done upon strict business principles.

From the statement of assets it will be seen that there is an apparent surplus of \$2,220, and the trustees will pay any deficiency there may be in meeting the expenses.

Respectfully submitted.

GEO. W. REID.

Examined December 9th.

TRADES, *December 9.*

Bonds and mortgages, 7 .....	\$15,500 00
Safe and fixtures.....	2,000 00
Lease of Banking-house.....	3,600 00
Cash in safe.....	\$8,839 62
Cash in N. Y. S. Loan and Trust Co....	1,197 67
	<hr/> 10,037 29
	\$31,137 29
Due 270 depositors .....	28,916 32
	<hr/>
Surplus.....	<u>\$2,220 97</u>

The interest accrued from the assets will just about pay interest accrued to depositors, and the amount of expenses over income will be paid by the trustees for the next year.

Mr. Olmstead called for the report made to the department by the officers of the Trades' Savings Bank, as of January 1, 1874, which was produced by the witness and read in evidence by the counsel, as follows:

SCHEDULE A.

BONDS AND MORTGAGES.

No.	County where located.	In what city, village or town.	Principal unpaid.	Est'd value of mortgaged premises.	Rate of interest.
1 ..	New York.....	New York.....	\$10,000	\$20,000	Seven.
2 ..	Kings.....	Brooklyn .....	3,000	8,000	Seven.
3 ..	Kings.....	Brooklyn .....	2,500	6,500	Seven.



## SCHEDULE F.

## CASH DEPOSITED IN BANKS OR TRUST COMPANIES.

Name of Bank or Trust Company.	Location.	Amount on deposit.	Rate of interest.
New York Loan and Trust Company .....	92 Broadway..	\$817 25	Five.
First National Bank.....	94 Broadway...	3,000 00	Four.

*Report of the Trades' Savings Bank, an incorporated institution for savings, of its condition on the first day of January, 1874, made to the Superintendent of the Banking Department, as required by chapter 136 of the Laws of 1857.*

## FINANCIAL.

*Resources.*

1. Bonds and mortgages, as per Schedule A, hereto annexed.....	\$15,500 00
2. Stock investments as per Schedule B, hereto annexed.....	
3. Amount loaned on public stocks, as per Schedule C, hereto annexed.....	
4. Amount loaned on stocks or bonds of private corporations, as per Schedule D, hereto annexed.....	
5. Amount loaned on personal securities, as per Schedule E, hereto annexed.....	
6. Real estate, cost, \$ ; market value, \$ ; standing on books at \$ .....	
7. Cash on deposit in banks or trust companies, as per Schedule F, hereto annexed.....	3,817,25
8. Cash on hand not deposited in bank.....	6,859 61
9. Amount of assets not included under either of the above heads, the particular items of which are set forth in Schedule G, hereto annexed.....	8,098 45
	<u>\$34,275 31</u>

*Liabilities.*

1. Amount due depositors.....	\$29,869 21
Principal .....	\$29,318 34
Interest credited for the 1st of January 1874.....	577 87
2. Other liabilities, viz. :	
3. Excess of assets over liabilities.....	4,379 10
	<u>\$34,275 31</u>

## STATISTICAL.

1. Number of open accounts on the morning of January 1, 1874.....	274
2. Number of accounts opened during the year 1873 ..	413
3. Number of accounts closed during the year 1873..	243
4. Number of accounts opened since organization....	645
5. Amount deposited, not including interest credited during the year 1873.....	\$194,444 54
6. Amount deposited, including interest credited, for the same period.....	195,209 70
7. Amount withdrawn during the year 1873.....	184,009 75
8. Amount of interest or profits earned* during the year 1873.....	776 57
9. Amount of interest credited to depositors for the same period .....	765 16
10. Amount of each semi-annual credit of interest, for the year 1873, and when credited: June 30, \$58.25 ; December 31, \$577.87; credited at other periods during the year, \$129.04.	
11. Rate per cent of dividends or interest to depositors during the past year, five and seven per cent.	

STATE OF NEW YORK, }  
COUNTY OF NEW YORK, } ss. :

C. B. Le Baron, President, and I. M. Freese, Secretary of the Trades' Savings Bank, an incorporated institution for savings, located and doing business at No. 275 West Twenty-third street, in the city of New York, being duly and severally sworn, each for himself, saith that the foregoing report and the schedules accompanying the same are, in all respects, a true statement of the condition of said institution before the transaction of any business on the morning of the first day of January, one thousand eight hundred and seventy-four, in

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\*If amount received is reported, strike out "or earned;" if amount earned is reported, strike out "received or."

respect to each and every of the items and particulars therein specified, according to the best of his knowledge and belief.

C. B. LE BARON,  
*President.*  
I. M. FREESE,  
*Secretary.*

Severally subscribed and sworn by }  
both deponents, the 22d day of }  
January, 1874, before me.

JAMES LODER,  
*Notary Public for N. Y. Co.*

Mr. TRACY [to witness] — Where is Schedule G, referred to in this report?

The WITNESS — I have not got it; unless it is among those papers, I don't know where it is; these papers have already been used on one trial, and there are a good many of them missing; the papers produced here were all taken from their proper depository to be brought here.

Mr. OLMSTEAD — Have you had possession of these papers since they were taken from the department?

The WITNESS — Yes, this week.

Mr. Olmstead called upon the witness to produce all the papers and letters in his possession relating to the bank under consideration, and the witness produced a package containing, he said, all such papers or letters of which he had knowledge. }

Mr. Olmstead called for a letter of G. W. Reid to the department, dated February 5, 1874. The witness produced the letter, and Mr. Olmstead read it in evidence as follows:

NEW YORK, *February 5, 1874.*

Hon. D. C. ELLIS, *Superintendent*:

DEAR SIR — Night before last the trustees of the Trades' Savings Bank removed Secretary Freese and put in Mr. Newton, one of Le Baron's clerks. Freese and his friends called in a policeman and gave the safe, etc., in his charge.

Yesterday I visited the bank and found the Le Baron party and the police in the bank, and Freese and his counsel up-stairs. Freese had an affidavit partly drawn, making serious charges against Le. B., that he had attempted to use the funds of the bank in an improper manner, made propositions to him to divide the use of the funds to a certain extent between them, etc., etc., which proposition he rejected. This affidavit was to be placed in my hands to be sent to you. When Le B. "purchased the bank" (with only about \$800 due the deposit-

ors) he paid McClave, the former president, \$2,100, taking an assignment from him individually of the lease, safe and fixtures. Two-thirds of this property Le B. afterward transferred to Freese for the same amount of money, and gave him the position of secretary. This money Freese now wishes to get back, and hesitates about giving the "affidavit," saying he is ready to give his testimony when called upon.

Freese appears to have been working in the interest of the depositors, thinking he could restrain Le Baron, but he has compromised himself by his representations to me as to the management of the bank and in his reports to the department.

If you consider it "unsafe or inexpedient" for the bank to continue to transact business (act of April 25, 1871), can you turn it over to the Attorney-General, or will it require further action here?

There is \$20,000 on deposit in the Hanover Nat. Bank, subject to be drawn on the signature of the president and secretary, and \$1,347 in the N. Y. S. Loan and Trust Co., which can be drawn by the president alone.

The loans of \$15,500, in B. M., were made by Le B. without the action of the board, as required by section 6 of the charter and from what I now learn were for the benefit of Le B.

There is about \$5,700 cash in the safe, and \$2,300 in checks, said to be good, making assets \$44,847, with safe, furniture, etc., to pay \$47,000 deposits.

Yours truly,

GEO. W. REID.

P. S.—Mr. Aldrich *wishes me* to say that if a receiver is appointed he would like to be the man.

Mr. Olmstead called for the report made by the Trades' Savings Bank to the department, of date January 1, 1875.

The witness produced it, and it was read in evidence, with accompanying papers, as follows:

#### SCHEDULE A.

##### BONDS AND MORTGAGES.

No.	County where located.	In what city, village or town.	Principal unpaid.	Est'd value of m'tgag'd premises.	Rate of inter'st.
				Called in.	
....	New York .....	New York.....	\$10,000	\$15,000	Seven.
....	Kings.....	Brooklyn.....	3,000	7,000	Seven.
....	Kings.....	Brooklyn.....	6,000	14,000	Seven.
....	Kings.....	Brooklyn.....	3,000	7,000	Seven.
....	Kings.....	Brooklyn.....	3,000	7,000	Seven.

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